

## **INTRODUCTION**

### **CHIP**

### **Recipients' Manual**

#### Background

The Home Investment Partnerships Act (the HOME Act) (Title II of the Cranston-Gonzalez National Affordable Housing Act, as amended) was signed into law on November 28, 1990 (Pub. L. 101-625), creating the HOME Investment Partnerships Program. The HOME Program provides funds to expand the supply of affordable housing for individuals and families earning less than 80% of the Area Median Income (low and very low income). Interim regulations for the HOME Program were first published on December 16, 1991 and are codified at 24 CFR Part 92. The HOME Final Rule was released September 16, 1996. The complete HOME Rule updated through December 31, 2004 can be accessed at:

<http://www.hud.gov/offices/cpd/affordablehousing/lawsandregs/regs/finalrule.pdf>

#### The CHIP Program

The Georgia Department of Community Affairs (DCA) receives HOME Investment Partnerships funds from the U.S. Department of Housing and Urban Development (HUD) as the designated State Participating Jurisdiction (State PJ) for the State of Georgia. A portion of all HOME funds received each year by DCA are allocated to the Community HOME Investment Program (CHIP) and set aside for use by small cities and rural counties which are non-Participating Jurisdictions (PJs) according to HUD formula allocation guidelines. Non-PJs correspond roughly to the non-entitlement jurisdictions under the CDBG program. In order for these communities to receive HOME funding they must apply to DCA and, if awarded, become State Recipients (SRs) under CHIP.

State Recipients under CHIP are responsible for carrying out all program activities and complying with all HOME regulations as well as many other federal requirements. DCA is responsible for providing technical assistance, developing program allocation and selection policies (application stage), management of the funding and distribution process, and program reporting and monitoring functions. Our goal is to help local governments do the best job possible providing affordable housing services to their communities while requiring as little paperwork and programmatic oversight as is necessary to meet our due diligence and regulatory responsibilities.

Program Application Procedures are covered in the CHIP/CDBG Applicant's Manual. Regulatory and other federal requirements will be discussed in this manual and can also be found in the HOME Final Rule.

#### Recipients' Manual Content

The Recipients' Manual contains 10 Chapters covering all aspects of program administration from start-up to close-out. In addition, you will find a Forms Section containing copies of many of the required (or sample) forms used to operate a CHIP program. The Appendices provide a variety of current tables (e.g. HUD's most recent Area Median Income Tables), guidelines, and related program documents that a SR will often refer to in the day to day operation of its program. A list of web site addresses is provided in order for SR's to access the HOME program regulations and other federal regulations including HUD's lead based paint requirements as well as various HUD Notices related to the HOME (CHIP) program.

#### Disclaimer

This Manual provides information required by State Recipients in administering their CHIP program locally. However, whenever there is a conflict between this Manual and the Final HOME Rule, the HOME Rule must be complied with, except where DCA has more narrowly defined any HOME activities or programmatic requirements.

**The Community HOME Investment Program (CHIP)  
Recipients' Manual**

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## **WEB ADDRESSES**

### **HOME Final Rule:**

<http://www.hud.gov/offices/cpd/affordablehousing/lawsandregs/regs/finalrule.pdf>

### **The Common Rule:**

<http://www.gpoaccess.gov/ecfr/>

### **CPD Notice 98-9, HOME Program Conflict of Interest Provisions:**

<http://www.hud.gov/offices/cpd/lawsregs/notices/1998/98-9.pdf>

### **Georgia State Minimum Construction Codes**

<http://www.development/ConstructionCodes/index.asp>

### **Lead Based Paint Regulations**

<http://www.hud.gov/offices/lead/leadsaferule/LSHRFinal.21Jne04.rtf>

### **CPD Notice 96-09 Administrative Costs and Project Related Soft Costs**

<http://www.hud.gov/offices/cpd/lawsregs/notices/1996/96-9.pdf>

### **CHIP Loan Documents**

<http://www.DCA.state.ga.gov/housing/housingdevelopment/programs/homeinvestment.asp#DownloadRelated> Documents.

### **Energy Star and HOME**

<http://www.hud.gov/energystar/home.cfm>

# CHAPTER 1 – Program Start-Up Instructions

This Chapter provides instructions on starting up your CHIP program as well as an overview of significant administrative responsibilities for all State Recipients.

## Section 1. *Activating Your New CHIP Award*

- A. Upon approval of an application for CHIP funds, DCA must enter into a written agreement (CHIP Statement of Award and Statement of Conditions) with each selected State Recipient (hereinafter “SR”). This Agreement is required by HUD for all CHIP recipients, and covers both the funding level and planned activities of the SR and the applicable HOME Regulations (24 CFR 92) that must be followed. Attached to the **CHIP Statement of Award** will be a **Statement of Conditions** (includes both General and Special Conditions) outlining any requirements (Special Conditions) that must be met prior to draw down of CHIP funds. In addition, if DCA has made any revisions to the program (i.e. budget changes), a **Statement of Revisions** will also be attached.

The CHIP Statement of Award will be signed by the Commissioner of DCA and given to the SR in an Award Package distributed during the Recipient’s Workshop. The Award package will also contain a pink copy of the signed **Statement of Award** as well as two copies each of the **Statement of Conditions** and **Statement of Revision** (if applicable).

### *Executing Instructions:*

- The SR must have their Certifying Representative examine these documents closely before signing and dating all required originals and copies;
- The Certifying Representative (Mayor, Chairman of County Commission or other authorized official) must execute all documents.
- The Certifying Representative must execute both versions of the Statement of award and return the original version to DCA within 30 days of the date of the Recipients’ Workshop (Award Date). The SR must retain the pink version for their records;
- The Certifying Representative must also execute both copies of the Statement of Conditions and Statement of Revisions (if applicable) and return one signed original copy to DCA within thirty (30) days of the Award Date. The other copies must be retained in the local program records;

- B. An Authorization Agreement for Automatic Deposits (See Form #1) is to be completed and returned to DCA along with the executed Statement of Award.

- C. An Authorized Signature Card (See Form #2) must be signed by at least two signatories, one of whom must be a local government employee (not RDC), authorized to request payment of funds under the Statement of Award. Check the box designating either one or two signatures as required. (NOTE: If the authorized official designates him/herself for drawdown, then two authorized signatures are required). The SR’s certifying representative should also sign the card to certify that the individuals named above are indeed authorized to request payment and that the signatures on the card are their own. No erasures or corrections may appear on form.

*All correspondence and submissions relating to a CHIP program should be mailed to the following address in care of.*

Mr. Steed Robinson  
Director  
Office of Community Development  
Georgia Department of Community Affairs  
60 Executive Park South, N.E.  
Atlanta, GA 30329-2231

## **Section 2. *Addressing Your Grant Award's Special Conditions***

There are three standard Special Conditions for all CHIP projects, including the Affirmative Marketing Plan, the Minority and Women Business Outreach Plan, and the Environmental Statutory Checklist which must be submitted by the SR prior to drawdown of project or administrative funds. On a case by case basis there may be additional Special Conditions that must also be satisfied by the SR prior to drawdown. (See Chapter 5, Sections 1, Section 6.D and Section 6.G and Appendices A and B and form #3 for further instructions.) Please submit these plans to:

Mr. Steed Robinson  
Director  
Office of Community Development  
Georgia Department of Community Affairs  
60 Executive Park South, N.E.  
Atlanta, GA 30329-2231

A Grant Adjustment Notice will be sent to the SR upon receipt of documentation satisfying each of the Special Conditions.

## **Section 3. *Meeting Your Citizen Participation Requirements***

It is the policy of DCA to require SRs to involve citizens in the development and conduct of the CHIP program in a manner similar to that required by the State CDBG Program. The following Citizen Participation Plan has been adopted for the State CDBG Program and must be adhered to for all CHIP grantees as well:

- A. At least one public hearing must be held in the locality prior to submission of an application to DCA. The purpose of the hearing is to obtain citizen views and to respond to proposals and questions concerning previous CHIP funded projects (if any) and to obtain citizen participation in the development of new proposals, including identification of community needs and proposed activities.
- B. At least one public hearing must be held to discuss the approved activities within 60 days of the date of grant award. The hearing must include the estimated amount proposed to be used for the activities that will benefit low and very low income persons, the recipient's plans for minimizing the displacement of persons as a result of CHIP funded activities and for assisting persons actually displaced as a result of such activities.
- C. At least one public hearing must be held if a grantee proposes a substantive amendment to the program, as defined in Chapter 1, Section 9, Amendments, Budget Revisions, and other Adjustments.
- D. At the completion of the project, the recipient shall prepare a detailed Final Quarterly Report that describes the accomplishments of the project. The State Recipients are required to hold a Public Hearing at project completion to review accomplishments and to receive citizen comments. (See also Chapter 1, Section 11. Closing Out Your Program.



- E. The public hearings required by this Section shall be held only after publication of a notice not less than five (5) full days prior to said hearing in the non legal Section of a local newspaper of general circulation. A full five days must pass from the publication date to the public hearing date.

**For example:** The hearing is scheduled for a Friday afternoon. Counting backward, day one is Thursday and day 5 is Sunday. The notice must be in a paper earlier than the previous Sunday. State Recipients are encouraged to provide for other forms of public notice to other known interested parties.

- F. Hearings must be held at times and locations convenient to potential or actual beneficiaries and with accommodation for the handicapped. Public hearing notices should include information to accommodate special needs.
- G. Certified minutes shall be taken of all Public Hearings and kept as part of your program's records.
- H. The needs of non-English speaking residents must be met in the case of public hearings where a significant number of non-English speaking residents can be reasonably expected to participate.
- I. SR files must maintain a separate file containing documentary evidence that the actions listed in this Section have been taken, including copies of actual notices and minutes of hearings.
- J. Applicants and recipients must provide technical assistance to groups representative of persons of low and very low income that request such assistance in developing proposals, with the level and type of assistance to be determined by the local unit of government.
- K. Citizens must be provided with reasonable and timely access to local meetings, information and records relating to the local government's proposed and actual use of CHIP funds as required by HUD regulations and state law.
- L. In the event the local government receives a written complaint or grievance concerning the CHIP program, a timely written response must be made within 15 working days, where practical.
- M. This Section may not be construed to restrict the responsibility or authority of the local government for the development and execution of its housing program.
- N. In case of receipt of a citizen complaint by DCA, the following procedure is established:
1. DCA shall respond to written complaints only, and then only if evidence indicates that relief has previously been sought at the local level;
  2. Upon receipt of a complaint, DCA shall transmit a copy of the complaint to the recipient and request a response within fifteen (15) calendar days;
  3. If the response indicates the recipient is in noncompliance with law or regulation, DCA shall require corrective action and advise the complainant of its decision; and,
  4. DCA will only take action if complaints indicate noncompliance with law or regulation. Other complaints about the program should be handled on the local level.

- O. Although recipients may designate the location of the program records, DCA must be officially informed of their location. In addition, in order to insure citizen access to CHIP program records, if the location of the records is different from the recipient's normal place of business, the following minimum information must be on file in a designated place within the locality and available for public inspection:
- The program application;
  - The citizen participation plan;
  - Officially adopted Program Policies and Procedures;
  - The standard performance/financial reports, including Quarterly Reports;
  - Other pertinent information deemed appropriate by the SR, such as Minimum Property Standards and Construction Specifications; and
  - The environmental review record.
  - CHIP Bank Accounts and Statements

#### ***Section 4. Developing Your Local Program Policies and Procedures***

Prior to implementation of each local CHIP program, the SR must adopt a resolution by the governing body approving and adopting a set of Program Policies and Procedures that outline all applicable program policies based on the approved grant application. Program Policies and Procedures should cover topics including, but not limited to, the following:

- Eligible Borrowers;
- Eligible Activities
- Application Intake (including required documentation);
- Loan Terms and Conditions (including leverage loan requirements);
- Minimum Property Standards, Written Rehabilitation Standards and permitted General Property Improvements (GPI). GPI cannot exceed 40% of leveraged funds. GPI cannot be made with CHIP funds.
- Inspection, Work Write-up, and Bidding Procedures;
- Contractor Qualifications;
- Loan Documentation and Loan Closings
- Progress Payments, Change orders, and Closeouts
- Appeals and Complaints

#### ***Section 5. Setting-Up Projects and Drawing Down Funds***

##### ***A. General Requirements***

1. Project Funds and Project Delivery Cost Payments may only be drawn down on a project by project basis after a project has been Set-Up by DCA in HUD's Integrated Disbursement and Information System (IDIS) and confirmation of the Set-up has been sent to the SR;
2. Administrative Funds may be drawn down only after receipt of materials required to meet the Special Conditions included with the Statement of Conditions. Up to 25% of the total administrative funds available may be drawn down as soon as all Special Conditions have been met. Up to 75% of the total administrative funds available may be drawn down after one half of the total CHIP award has been disbursed. All remaining administrative funds may be drawn only upon completion of the last project and submission of all required close-out materials; (See Note at end of Chapter.)

3. Project Banking Requirements. The SR can only draw down administrative and project funds on an "as needed" basis. The SR must place all funds received from DCA into a separate, non-interest bearing local CHIP Housing Account (CHIP Account). All funds placed in the CHIP Account must be expended (checks written and distributed to the appropriate vendor or other payee) within seven (7) working days of receipt of the funds from DCA. All funds not disbursed (based on date checks written) within the time limit must be returned promptly to DCA, which must in turn refund these funds to the United States Treasury. Only a minimum amount of funds (maximum \$100) sufficient to keep the CHIP Account open may remain in the account after that timeframe.

#### *B. Project Drawdown Procedures*

In order to receive a CHIP project draw SRs must first submit project information as required by DCA to "Set-up" the project in HUD's Integrated Disbursement and Information System (IDIS). Under CHIP, a "Project" is the actual property which is being rehabilitated or purchased by an eligible household. After HUD notifies DCA that the project is set up, DCA will give the SR a HUD project number. After receiving the HUD project number the SR may then submit to DCA a "Request for Drawdown of CHIP Funds" whenever necessary for one or multiple project payments and/or administrative payments using the designated HUD Project Number for each project payment.

#### *C. Drawdown Schedule*

Draw request may be sent as often as daily, but are processed by DCA twice weekly. All requests must be original (received by mail, courier, or hand delivered). Request received by the end of business on Tuesday will be processed for payment on the second Friday following the Tuesday receipt. Request received by the end of business on Thursday are processed for payment on the second Friday following the Thursday receipt. All payments will be via wire transfer unless special circumstances require a manual check.

**NOTE:** For more information about project set-up and drawdown procedures, please read Chapter 9: DCA Project Interface.

## **Section 6. Suggested Program Implementation Timeframe**

Completion of program activities within the timeframe established in the approved application is extremely important since future decisions will take into account timely implementation. DCA reserves the right to deny an SR's following year funding request if an acceptable level of a current year's program award has not been drawn down. In addition, HOME funds have very specific timeframes within which they must be drawn from the federal government.

**NOTE:** Failure to complete projects within the established timeframe or within a reasonable amount of time may result in de-obligation of current funding, restrictions on future funding, or other Sanctions (See Section 12: Sanctions)

Do not delay in getting started – housing program administration is not easy and requires long lead times to accomplish goals. The following is a recommended schedule for basic program activities (may be used to tighten applicant's proposed timeframe)

<b>ACTIVITY</b>	<b>RECOMMENDED DATES</b>
Execution of Statement of Award	September 30, 2009 (required by October 16, 2009)
Submit Special Condition Clearances	October 31, 2009
Hold Public Hearing	before November 7, 2009
Final Staffing/Administrative Procedures	November 21, 2009
Program Policies /Final Financing Terms	December 1, 2009
Begin Program Marketing	December 8, 2009
Begin Application Processing	December 22, 2009
Complete First Specifications/Bid Package	January 5, 2010
Evaluate First Contractor Proposals	January 19, 2010
Approve First Housing Loan	February 2, 2010
Complete First Unit	March 29, 2010
Complete 50% of Planned Units	September 21, 2010
Complete Last Unit	January 18, 2011
Submit Final Quarterly Report	April 30, 2011
Complete Financial Audit	by end of fiscal year

## **Section 7. Reporting and Monitoring Your Program's Progress**

SRs must constantly monitor their own performance under CHIP to insure timeframes are being met and to control the quality of the product being delivered. Any problems, delays, or adverse conditions that will affect the SR's ability to meet its stated goals should be reported to DCA either immediately or at least quarterly on the required Quarterly Report.

### **A. Program Reporting**

In order to keep track of local program activity and to collect information necessary to complete state and federal compliance reports, DCA requires that SRs submit both Quarterly Reports and other reports as required.

1. **Quarterly Reporting.** SRs must submit a quarterly Expenditures and Progress Report (Form DCA/CHIP-D) to DCA. The "Quarterly Report" is due within 30 days after the end of the first full calendar quarter with the final report due within 30 days after all activities are completed. No drawdown of funds is authorized by DCA if a report is delinquent. A final Quarterly Report is due within 30 days of the completion of all program activities. See Form # 4, Quarterly Report.

Financial information provided on the Quarterly Report must be based on accounting records of actual expenditures as well as all obligated contractual or other expenses. The report also provides DCA with vital information about the progress of your program and the other financial resources you have attracted to your program.

2. **Other Reports.** The SR is responsible for reporting on other information as needed by DCA to comply with other federal regulations including an annual assessment of the SR's Affirmative Fair Housing Marketing Plan and an annual report on the SR's Minority/Women's Business Enterprise Outreach activities. Most of this information will be submitted to DCA by the SR at project set-up using the DCA Project Set-up Form or on the Quarterly Report and will be maintained in a database by DCA for periodic HUD reporting requirements, or as annual assessments. However, in order for DCA to meet HUD's reporting requirements on contractor data, the "Contracts and Subcontracts for Projects Completed" form must be submitted to DCA with the final drawdown request. Please see Form # 5.

As a General Condition of the CHIP award, the SR must provide additional program reports or information to DCA on an “as needed basis”.

**See Chapter 9, Section 6 for more information about reporting requirements.**

*B. Program Monitoring*

DCA will continually monitor each SR's progress in carrying out their program activities. Notices will be sent whenever an SR is significantly behind on their program activity schedule. In addition, DCA will make site visits as frequently as necessary to provide technical assistance. In addition to technical assistance visits, DCA will also review each SR's records and conduct housing inspections to insure that all applicable state and federal requirements are being met – including the SR's own locally established policies. Generally, a letter will be sent shortly after the monitoring visit to provide feedback about both positive aspects of the program as well as discuss solutions to any problems noted during the monitoring visit.

Initially, DCA staff will conduct a local site visit during the implementation phase of the program to help insure that all General and Special Conditions are being met (e.g. Public Hearings, Fair Housing/Equal Opportunity) in advance of actual program activity. Later, once housing activity has begun, a formal site visit will be scheduled to review all aspects of record keeping, program and financial administration and construction quality. Interim site visits or other periodic contact will occur at least every 12 months during your program's operation.

Prior to Program Close-out, a final visit will be scheduled by DCA to complete a final review of program and project records.

*Copies of the DCA and HUD Monitoring Checklists are included at Appendix C.*

## **Section 8. Avoiding Conflicts of Interest**

Whenever an SR is directly contracting for goods and services, the Conflict of Interest provision in the “Common Rule”, (24 CFR 85.36 and 24 CFR 84.42) must be complied with. Guidance to working under the “Common Rule” is provided in Chapter 8, Section 5, Procurement Standards. A copy of the Common Rule can be accessed at:

<http://www.gpoaccess.gov/ecfr/>

**or**

<http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&rgn=div5&view=text&node=24:4.0.3.1.29&idno=24>

In all cases not governed by 24 CFR 85.36 and 24 CFR 84.42, the HOME Program Conflict of Interest provisions apply. The provisions are under 24 CFR 92.356. For further guidance, please see the HUD CPD Notice 98-9 “HOME Program Conflict of Interest Provisions that can be accessed at:

<http://www.hud.gov/offices/cpd/lawsregs/notices/1998/98-9.pdf>

Whenever the SR is not a direct party to a contract, the following Conflict of Interest provisions apply:

- A. Conflicts prohibited. No persons described in Paragraph B below who exercise or have exercised any functions or responsibilities with respect to activities assisted with CHIP funds or who are in a position to participate in a decision making process or gain inside

information with regard to these activities, may obtain a financial interest or benefit from a CHIP-assisted activity or have an interest in any contract, subcontract or agreement with respect thereto, or in the proceeds thereunder, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter.

- B. Persons Covered. The conflict of interest provisions of paragraph A above apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the state, or of a unit of general local government, or of any designated public agencies, or sub recipients which are receiving or administering CHIP funds.

- C. Definition of Family or Business Ties. DCA defines the meaning of the term "family or business ties" as follows:

- Family: "A group of people related by ancestry or marriage; relatives."
- Business: "The buying and selling of commodities and services; commerce, trade."
- Ties: "Something that connects, binds or joins; bond; link."

- D. Exceptions: Threshold requirements. Upon written request, DCA may grant an exception to the provisions of paragraph A above on a case-by-case basis, **before federal funds are expended**, when it determines that the exception will serve to further the purposes of the CHIP program. To seek an exception, a written request for an exception must be submitted by the unit of local government to DCA that:

1. Fully discloses the conflict or potential conflict of interest, prior to the unit of government undertaking any action which results or may result in a conflict of interest, real or apparent; and
2. Describes how the conflict of interest was publicly disclosed; and
3. Includes a written opinion of the local government's attorney that the interest for which the exception is sought would not violate state or local law.

- E. Factors to be considered for exceptions: In determining whether to grant a requested exception after the SR has satisfactorily met the requirement of Paragraph D above, DCA will consider the cumulative effect of the following factors, where applicable:

1. Whether the exception would provide a significant cost benefit or an essential degree of expertise to the program or project which would otherwise not be available;
2. Whether the person affected is a member of a group or class of low-income persons intended to be the beneficiaries of the assisted activity, and the exception will permit such a person to receive generally the same interests or benefits as are being made available or provided to the group or class;
3. Whether the affected person has withdrawn from his or her function or responsibilities, or the decision making process with respect to the specific assisted activity in question;

4. Whether the interest or benefit was present before the affected person was in a position as described in Paragraph B above;
  5. Whether undue hardship will result either to the SR or the person affected when weighed against the public interest served by avoiding the prohibited conflict; and,
  6. Any other relevant considerations presented to DCA;
- F. Owners and Developers. No owner, developer or sponsor of a project assisted with CHIP funds (or officer, employee, agent or consultant of the owner, developer or sponsor) whether private, for profit or non-profit may occupy a CHIP-assisted affordable housing unit in a project. Any exceptions must be approved in advance by DCA and then only when the SR can demonstrate to DCA that the exception will serve to further the purposes of the CHIP program.

This provision does not preclude an income eligible, volunteer/owner participating in the construction of a single-family dwelling unit as part of a self-help homeownership program (e.g. Habitat for Humanity) when the individual is not an official, employee, agent, or consultant of the developer.

**NOTE:** If you have any questions regarding who may or may not be covered under the conflict of interest provisions above, please call DCA immediately to discuss such matters **prior to** entering into contracts or disbursing money. Also, please see Form # 6 regarding DCA's required "Certification as to Conflict of Interest". **It is important to remember that any exceptions to the conflict of interest regulations must be approved by HUD.**

## ***Section 9. Amendments, Budget Revisions, and other Adjustments to Your Program***

- A. SRs must request a Program Amendment and receive prior approval from DCA in the following instances:
1. If the addition of a new activity or deletion of an approved activity is proposed;
  2. If a decrease in excess of 10% in the scope of an approved activity is proposed;
  3. If any activity is proposed that deviates from any designated target areas or targeted client population;
  4. If a budget revision is proposed which will result in a transfer between approved budget activities or in a change in any activity's budget allocation of an amount in excess of 10% of the grant award; and,
  5. If the SR plans to deviate from the planned number of stick-built homes for any activity and undertake in lieu of stick-built homes activity for manufactured housing.
- B. If a substantive amendment to the program is proposed, at least one public hearing must be held (See Chapter 1, Section 3. Citizen Participation) The SR is advised to

modify the format of the post award public briefing notice to advise the public of the status of the on-going grant as well as the amendment proposed.

- C. A request for program amendment must provide sufficient narrative information to adequately explain and justify the proposed amendment. A copy of the public hearing notice and minutes of the meeting, a revised target area map (if applicable); a Revised Form DCA-2 and a revised budget (Forms DCA-7 and DCA-8) reflecting the proposed changes for both allocation transfers and changes in program scope. The adjusted budget forms must include the entire program budget and not just the proposed changes.
- D. DCA shall inform the SR of **approval or denial** by using a Grant Adjustment Notice after review of the proposed changes.

## **Section 10. *Keeping Records for Your Program***

- A. Financial and programmatic records covering all financial transactions and demonstrating compliance with all HOME regulations and other state requirements must be maintained in an accessible manner for a minimum of five (5) years from the date of program close-out except under the following circumstances:
  - 1. Records pertaining to projects which have an applicable affordability period must be maintained for five (5) years after the end of the affordability period (*See Chapter 3, Section 7 for specific affordability timeframes*);
  - 2. Written agreements must be retained for five years after the agreement terminates;
  - 3. Records pertaining to displacement and relocation must be maintained for five years after the last payment made under the settlement agreement has been made;
  - 4. Records pertaining to any disputes, appeals, etc., must be kept until the dispute is resolved or the regular retention period has expired, whichever is later.

**NOTE:** For detailed information about record keeping, please see **Chapter 8, Section 4**

## **Section 11. *Closing Out Your Program***

There are two levels of close-out under CHIP: Project Close-Out and Program Close-Out.

- A. Project Close-Out. Within 60 days of the final draw for a specific project, information must be submitted by the SR to DCA documenting the completion of the project. DCA must, in turn, submit a Project Completion Report to HUD for each project within 120 days of the final draw. A copy of the Project Completion Form is included in this Manual as Form # 13. DCA must complete this form with information provided by the SR and submit it to HUD.
- B. Program Close-Out. Within 30 days of payment of all CHIP funded costs (with the exception of audit costs and any unsettled third-party claims), the SR should inform DCA that the CHIP Program is ready for close out and when the next annual audit is scheduled. The following shall be used by DCA and the SR:



1. DCA will conduct a review to ensure that any monitoring findings are resolved, and that any excess grant funds have been refunded. DCA will also verify that the accomplishments included on the Final Quarterly Report (see below) are accurate;
2. The SR must prepare a detailed Final Quarterly Report which describes the accomplishments of the project. The State Recipients are required to hold a Public Hearing at project completion to review accomplishments and to receive citizen comments. See Chapter 1, Sections 3 and 7.
3. After review and final resolution of any findings, DCA will notify the SR of conditional Close-out pending receipt of an acceptable final audit. (For Audit requirements, See **Chapter 8 – Financial Management**)

## Section 12. *Sanctions*

- A. Whenever DCA determines that a unit of local government that is a recipient of CHIP assistance has failed to comply with the requirements of the CHIP Program, including those requirements listed in this Manual, DCA shall notify the Chief Elected Official of the unit of local government of the noncompliance and shall request appropriate compliance action. If within a reasonable period of time the local government fails or refuses to comply, DCA may:
  1. Refer the matter to the Attorney General with a recommendation that an appropriate action be instituted;
  2. Terminate payments to the recipient;
  3. Require repayment of funds spent improperly;
  4. Reduce payments to the Recipient by an amount equal to the amount of such payments that were not expended in accordance with the requirements of the CHIP Program;
  5. Prohibit the city or county from participation in future CDBG/CHIP competitions;
  6. Limit the availability of payments to programs or activities not affected by such failure to comply; or
  7. Take such other action as may be provided by law, regulation or program policies.
- B. Opportunity for an informal consultation. Prior to a reduction, withdrawal, or adjustment of a grant or other appropriate action taken pursuant to paragraph A of this section, the Recipient shall be notified of such proposed action and be given an opportunity within a prescribed time period for an informal consultation.

**NOTE:** In order to get reimbursed for both CHIP project delivery fees and CHIP administrative services, itemized invoices must be submitted to the CHIP Recipient setting forth the costs incurred for both services. DCA will continue to monitor this process during on-site reviews. Please also be advised that invoices that simply reference “project delivery fees” or award “administrative fees” are not considered detailed or itemized and will not meet HUD’s and DCA’s Requirements for detail and itemization. Rather a listing of the type of delivery or administrative services rendered must be included with the invoice. In situations where the State Recipient is handling the administrative duties and project delivery duties with its own staff, time sheets, travel reimbursements, etc. must be included with the invoice in order to be reimbursed.

## Chapter 2 – Eligible CHIP Activities and Ineligible CHIP Activities

### Section I: *Eligible CHIP Activities*

Eligible CHIP activities include:

**Homeowner rehabilitation:** CHIP funds may be used to assist existing low-income homeowners with the repair, rehabilitation or reconstruction of their homes.

**Homebuyer activities:** CHIP funds may be used to assist low-income households finance the acquisition, acquisition/rehabilitation, or new construction of homes for homebuyers.

**Rental housing:** CHIP funds may be used to acquire and or rehabilitate affordable rental housing.

#### Homeowner Rehabilitation

Whenever CHIP funds are used for rehabilitation, the work must be performed according to the State Recipient's written rehabilitation standards describing the methods and materials to be used when performing rehabilitation, and the unit must be brought up to state codes.

Because of the HOME regulation requirement that units being rehabilitated must be brought up to state codes, State Recipients may not undertake some forms of special purpose homeowner repair programs such as: weatherization programs; emergency repair programs; or handicapped accessibility programs. All of these types of repairs are eligible if they are undertaken within a more comprehensive scope of work that brings the units up to state codes.

#### Homebuyer Activities

Homebuyer programs can be structured in a number of ways to encourage the acquisition, acquisition and rehabilitation, or the new construction of affordable homes. Program design should be mainly guided by community needs and the local housing market.

**Acquisition:** A State Recipient can help eligible homebuyers purchase affordable homes by providing down payment or closing cost assistance, or by reducing the monthly carrying costs of a loan from a private lender. This approach to homeownership is best used in areas where an adequate supply of standard housing exists and where CHIP funds can make housing affordable to low-income households.

**Acquisition and rehabilitation:** In areas where there is insufficient standard housing, a State Recipient may incorporate a rehabilitation component into its homebuyer program.

**New Construction:** In areas where there is an insufficient supply of appropriate housing, a State Recipient may want to provide subsidies to stimulate construction of new housing.

**NOTE: Lease-Purchase:** A lease-purchase option may be used in conjunction with a homebuyer program. If lease-purchase housing is not conveyed within 36 months of signing the lease purchase agreement or within 42 months of project completion, the project becomes a HOME rental project subject to the HOME rental rules.

**NOTE: Rental Housing.** CHIP funds may be used for the acquisition, new construction or rehabilitation of affordable rental housing. Also, although eligible, rental housing activities will be subject to special scrutiny to be sure that applicants have the necessary capacity to carry out these types of projects.

## **Section 2. *Ineligible Activities***

DCA and/or the HOME program regulations prohibit the following CHIP activities:

1. Project reserve accounts: CHIP funds may not be used to provide project reserve accounts (except for initial operating deficit reserves) or to pay for operating subsidies;
2. Tenant based rental assistance.
3. Match for other programs: CHIP Program funds may not be used as the “nonfederal” match for other federal programs except to match McKinney Act funds;
4. Operations or modernization of public housing: CHIP funds may not be used for the development or modernization of public housing or to provide annual contributions for the operation of public housing. (Public housing is established under the 1937 Housing Act.)
5. Properties receiving assistance under 24 CFR Part 248 (Pre-payment of Low Income Mortgages): Properties receiving assistance through the Low Income Housing Preservation and Resident Homeownership Act (LIHPRHA) or the Emergency Low Income Preservation Act (ELIHPA) are not eligible for CHIP assistance unless the CHIP assistance is provided to priority purchasers. These programs are no longer funded.
6. Double-dipping: During the first year after project completion, the State Recipient may commit additional funds to a project. After the first year, no additional CHIP funds may be provided to a CHIP-assisted project during the relevant period of affordability except that a homebuyer may be assisted with CHIP funds to acquire a unit that was previously assisted with CHIP funds.
7. Acquisition of State Recipient Owned Property: A State Recipient may not use CHIP program funds to reimburse itself for property in its inventory or for property purchased for another purpose. However, **in anticipation** of a CHIP project, a State Recipient may use CHIP funds to acquire property and to reimburse itself for property acquired specifically for a CHIP project with other funds.
8. Project Based Rental Assistance: HOME funds, and therefore CHIP funds, may not be used for project based rental assistance if receipt of the funds is tied to occupancy in a particular project. Funds from another source, such as Section 8, may be used for this type of project-based assistance in a HOME-assisted unit. Further, HOME (CHIP) funds may be used for other eligible costs, such as rehabilitation, in units receiving project-based assistance from another source, for example, Section 8 funding.

## Chapter 3 – The Basic HOME (CHIP) Rules

There are seven basic HOME rules that will apply to all CHIP projects. These rules include:

### Section 1. *Definition of a Project*

Project means a site or sites together with any buildings (including manufactured housing units) located on the site(s) that are under common ownership, management and financing, that are to be assisted with the HOME (CHIP) funds as a single undertaking. The “project” includes all of the activities associated with the sites and buildings.

### Section 2. *Form of Subsidy*

The HOME regulation lists the following forms of subsidy as eligible:

- ◆ Interest bearing loans or advances
- ◆ Non-interest bearing loans or advances
- ◆ Deferred loans (forgivable or repayable)
- ◆ Grants
- ◆ Interest Subsidies
- ◆ Equity Investments
- ◆ Loan Guarantees or Loan Guarantee Accounts

**Note:** While the HOME regulation allows grants as a form of subsidy, DCA does not permit CHIP funds to be granted to the beneficiary other than the project delivery fee on homeowner rehabilitation projects. Ultimately, the project delivery fee on homeowner rehabilitation projects is paid to the State Recipient on behalf of the homeowner for costs incurred in delivering the project to the homeowner.

### Section 3. *Amount of Subsidy*

Per the HOME regulations, the maximum amount of HOME (CHIP) funds that a State Recipient may invest on a per unit basis in affordable housing may not exceed the per unit dollar limits established under Section 221(d) 3(ii) of the National Affordable Housing Act as set forth for elevator-type structures that apply to the area in which the housing is located. For the entire State of Georgia, the maximum amount of CHIP subsidy per unit cannot exceed:

Maximum Amount of CHIP Subsidy	No. of Bedrooms Per Unit
\$110,481	0 BR Unit
\$126,647	1 BR Unit
\$154,003	2 BR Unit
\$199,229	3 BR Unit
\$218,693	4 BR Unit

The HOME regulations also set forth that a minimum of \$1,000 in HOME (CHIP) funds must be expended on a project. These HOME per unit subsidy limits are also contained in Appendix H. Before committing funds to a project, the State Recipient must evaluate the project in accordance with locally adopted guidelines and may not invest any more CHIP funds, in combination with any other governmental assistance, than is necessary to provide affordable housing.

## Section 4. *Eligible Costs*

Eligible Costs include the following:

**New Construction** – New construction is an eligible CHIP cost for both homeownership and rental programs.

**Rehabilitation** – Rehabilitation is an eligible CHIP cost for homeownership housing and rental housing programs.

**Conversion** – Conversion is defined as converting an existing structure from another use to affordable residential housing. An example of conversion would be converting a school building into a residential condominium development. Converting an existing structure from another use to affordable residential housing is usually classified as rehabilitation. If conversion involves additional units beyond the walls (envelope) of an existing structure, the entire project would be deemed new construction. Conversion of a structure to commercial use is prohibited.

**Site Improvements** – Site improvements must be in keeping with improvements to surrounding standard housing projects. They include new, on-site improvements (sidewalks, utility connections, sewer and water lines, etc.) where none are present. Site improvements must be essential to the development or repair of existing improvements. Building new, off-site infrastructure is not eligible as a CHIP expense. As an example, infrastructure such as water and sewer lines in a public street in front of a CHIP-assisted property cannot be paid for with CHIP funds. However, the connections that run from the CHIP-assisted unit to the street are eligible.

**Acquisition of Property** – Acquisition of existing standard property or substandard property in need of rehabilitation is eligible as part of a homebuyer program or rental housing project. After acquisition, rental units must meet HOME rental occupancy, affordability and lease requirements.

**Acquisition of Vacant Land** – CHIP funds may be used for acquisition of vacant land only if construction will begin on the CHIP project within 12 months. Land banking is prohibited.

**Demolition** – Demolition of an existing structure may be funded through CHIP only if construction will begin on the CHIP project within 12 months.

**Relocation Costs** – Both permanent and temporary relocation assistance are eligible costs. Staff and overhead costs associated with relocation assistance are also eligible. The Uniform Relocation Act and Section 104(d) (also known as the Barney Frank Amendments) apply to all CHIP-assisted properties.

**Refinancing** – CHIP funds may be used to refinance existing debt secured by single-family owner-occupied properties in connection with CHIP-funded rehabilitation. The refinancing must be necessary to reduce the owner's overall housing costs and make the housing more affordable. Refinancing for the purpose of taking out equity is not permitted.

CHIP may also be used to refinance existing debt on multi-family projects being rehabilitated with CHIP funds if refinancing is necessary to permit or continue long-term affordability and is consistent with a State Recipient's established refinancing guidelines.

**Capitalization of Project Reserves** – CHIP funds may be used to fund an initial operating deficit reserve for new construction and rehabilitation of rental projects for the initial rent-up period. The reserve may be used to pay for project operating expenses, scheduled payments to a replacement reserve, and debt service for a period of up to 18 months.

**Project related soft costs** – CHIP funds may be used to pay for project related soft costs that are reasonable and necessary. Examples of eligible soft costs include but are not limited to:

- ◆ Finance related soft costs;
- ◆ Architectural, engineering and related professional fees;
- ◆ Homebuyer counseling provided the recipient of the counseling becomes the owner of a CHIP-assisted unit;
- ◆ Affirmative marketing and fair housing services to prospective owners of an assisted unit; and
- ◆ State Recipient staff cost or consultant/administrator costs directly related to projects.

## **Section 5. *The Property (Types, Values, Standards)***

There are three basic HOME rules regarding the property being assisted with HOME (CHIP) funds: 1) the types of properties that are eligible for funding; 2) the value or purchase price of the property; and 3) minimum required property standards.

### **Types of Properties**

**Property Type(s) for Homebuyer Activities** – Eligible property types include any property that will serve as the purchaser's principal residence, including:

1. A single family property (one unit);
2. A two-to-four-unit property – If CHIP funds are used to assist a purchaser acquire one unit in a two-to-four-unit property and that unit will be the principal residence of the purchaser, the long-term affordability requirements apply to the assisted ownership unit only. Also, if CHIP funds are used to help a purchaser acquire one or more rental units along with the homeownership unit, the HOME rental affordability requirements apply to the rental units.
3. A condominium unit;
4. A cooperative unit or a unit in a mutual housing project; and
5. A manufactured home –. The manufactured housing unit must be located on land owned by the manufactured housing unit owner, or on land for which the manufactured housing unit owner has a lease for a period at least equal to the applicable period of affordability. Per the HOME regulations, the manufactured housing unit must be connected to permanent utility hook-ups at the time of project completion.
6. **Property Type(s) for Homeowner Rehabilitation Activities** - To be eligible for CHIP homeowner rehabilitation assistance, a property must be occupied by an income-eligible homeowner and be the owner's principal residence. The eligible property types are:
  1. Traditional single family housing that is owned in fee simple. (This housing may contain one to four dwelling units.);
  2. A condominium unit;
  3. A cooperative unit or unit in a mutual housing project; and,
  4. A manufactured home. The manufactured housing unit must be located on land owned by the manufactured housing unit owner, or on land for which the manufactured housing unit owner has

a lease for a period at least equal to the applicable period of affordability.

**Note: On manufactured housing activity:**

- ◆ DCA has established a maximum of **\$5,000** per unit in CHIP funding that can be used toward the reconstruction of a manufactured housing unit or toward the down payment or second mortgage assistance if a **“used”** manufactured housing unit is provided as the reconstructed unit or the unit being purchased.
- ◆ Additionally, DCA has established that **“used”** manufactured homes can be no more than **five (5) years old** to receive CHIP reconstruction, down payment or second mortgage assistance.
- ◆ DCA has also established that a maximum of **\$7,500** in CHIP funding can be provided per unit for the reconstruction, down payment or second mortgage assistance if the unit is a **“new”** manufactured housing unit.
- ◆ The maximum amount of **total** funding (both CHIP and other funds) allowed for manufactured home rehabilitation activity is limited to **\$5,000**.

**Note:** If CHIP funds are used to assist the rental units in a two-to-four-unit property, the HOME rental requirements apply including the provisions regarding tenant occupancy, initial rent levels and long term affordability.

**Property Type(s) for Rental Activities** – CHIP assisted rental projects may be one or more buildings on a single site, or multiple sites that are under common ownership, management and financing. The project must be assisted with CHIP funds as a single undertaking. The project must include all activities associated with the site and building.

**Property Value**Error! Bookmark not defined.

The HOME regulations set forth a maximum after-rehabilitation value that owner-occupied properties rehabilitated with HOME (CHIP) funds cannot exceed. The HOME regulations also set forth a maximum value that properties being purchased with HOME (CHIP) funding cannot exceed. The maximum value in the case of rehabilitated properties or the maximum value in the case of homebuyer projects is determined periodically on a geographic basis by HUD.

For the entire State of Georgia, HUD has determined that the after-rehabilitation value of a property assisted with HOME (CHIP) funds cannot exceed \$200,160. Similarly, HUD has determined for the entire State of Georgia that property being purchased with HOME (CHIP) assistance cannot have a value that exceeds \$200,160.

While the HOME regulation removed the requirement for an appraisal, State Recipients must use a reasonable method to determine property value. Project files must contain the estimate of value and document the basis for the value estimates. Acceptable methods include:

1. Estimate of value by the State Recipient or sub-recipient provided the project file contains documentation as to the basis for the value estimate;
2. Appraisals, whether prepared by a licensed fee appraiser or by a staff appraiser of the State Recipient, provided the project file documents the appraisal approach used; and
3. A tax assessment for a comparable property located in the same neighborhood may be used to

establish the after-rehabilitation value **if** the assessment is current and accurately reflects market value **after** rehabilitation.

4. For manufactured homes, the tax assessor's land valuation (if owned)) plus 100 percent of the cost of the manufactured home including set-up costs. If land is rented, 100 percent of cost of the manufactured home including set-up costs.

**Note:** In order to ensure that the "after-rehabilitation" value falls within the HUD prescribed maximum value limitations, the after-rehabilitation value must be established prior to any rehabilitation work being performed utilizing one of the acceptable methods described above.

### **Property Standards**

HOME (CHIP) funded properties must meet certain minimum property standards. State and local codes and ordinances apply to any HOME (CHIP) funded project regardless of whether the project involves acquisition, rehabilitation or new construction.

For rehabilitation or new construction projects where there are not state or local building codes, the State Recipient must enforce national model codes as listed in Chapter 6, Section 6 of this Manual and in Appendix D of this Manual.

For acquisition-only projects, if there are no state or local codes or standards, the State Recipient must enforce the Section 8 Housing Quality Standards.

Additionally, each State Recipient must develop written rehabilitation standards to apply to all HOME (CHIP) funded rehabilitation work. These standards are similar to work specifications, and generally describe the methods and materials to be used when performing rehabilitation activities.

For the detailed requirements of meeting the HOME program minimum property standards, please see Chapter 6, Section 6 of this Manual.

## ***Section 6. The Applicant or Beneficiary***

The HOME (CHIP) program is designed to provide affordable housing to low- and very-low income households. Therefore, the program targets program resources to eligible low-income households and establishes applicant or beneficiary eligibility.

With regard to program resource targeting, each State Recipient must use one-hundred (100) percent of its CHIP funds to assist households with incomes at or below eighty (80) percent of the area median income based on household size for the county within which the property is located, as determined by HUD. Please see Appendix E for the HUD HOME Program Income Limits.

**Note:** Some additional targeting is required for HOME (CHIP) rental projects. Please contact DCA Office of Community Development at (404) 679-3167 for information regarding rental development requirements.

## ***Section 7. The Long Term Affordability of the Project***

To ensure that HOME (CHIP) investments yield affordable housing over the long term, HOME (and DCA for homeowner rehabilitation projects) impose occupancy and rent requirements over the length of the affordability period.



For CHIP assisted projects, the length of the affordability period depends on the amount of CHIP investment in the property and the nature of the activity funded. The table below provides the required affordability periods.

<b>CHIP Investment Per Unit</b>	<b>Length of Affordability Period</b>
Less than \$15,000	5 years
\$15,000 - \$40,000	10 years
More than \$40,000	15 years
New construction of rental housing	20 years
Refinancing of a rehabilitation rental project	15 years

Throughout the affordability period, the CHIP assisted housing must be occupied by income-eligible households. For homebuyer assistance and homeowner rehabilitation projects, recapture provisions apply to ensure continued availability of affordable homeownership opportunities.

HOME (CHIP) assisted rental units carry rent and occupancy restrictions depending on the average amount of HOME (CHIP) funds invested per unit and length of affordability as set forth in the above chart. **Affordability restrictions for HOME (CHIP) rental projects remain in force regardless of transfer of ownership.**

## Chapter 4 – Major Applicable Laws and Regulations

### Other Federal and State Requirements

In addition to the basic HOME rules previously outlined, there are a number of other federal and state regulations that must be adhered to in the course of administering a CHIP program. It is the responsibility of the certifying official to ensure that the proposed CHIP program, activities, goals and timetables are in compliance with all federal and state laws, regulations and executive orders. The major applicable laws, regulations and executive orders include, but are not limited to, the areas outlined below:

### Section 1. *Non-Discrimination and Equal Access*

State Recipients must take measures to ensure non-discriminatory treatment, outreach and access to CHIP program resources. This applies to employment and contracting, as well as to marketing and selection of program participants. The Georgia Department of Community Affairs (DCA) does not discriminate based on disability in the administration of the federally funded Community HOME Investment Program (CHIP) or the State Community Development Block Grant Program (CDBG). Please see Appendix F for DCA's Notice to the Public, Nondiscriminatory Policy Based on Disability.

#### Fair Housing and Equal Opportunity

**State Recipients and their activities must comply with all of the federal laws, executive orders and regulations pertaining to fair housing and equal opportunity listed below:**

1. Title VI of the Civil Rights Act of 1964, As Amended (42U.S.C. 2000d et seq.);
2. The Fair Housing Act (41 U.S.C. 3601-3620);
3. Section 104(b) (2) of the Fair Housing Act;
4. Fair Housing Act implementing regulations for HUD programs at 24 CFR Part 100-115;
5. Equal Opportunity in Housing (Executive Order 11063, As Amended by Executive Order 12259);
6. Equal Opportunity in Housing Regulations at 24 CFR Part 107;
7. Age Discrimination Act of 1975, As Amended (42 U.S.C. 6101);
5. Title VIII of Civil Rights Act of 1968 ( 2 U.S.C. 3601 et seq. and implementing regulations, as amended; and,
6. Affirmative Marketing in accordance with the HOME Investment Partnerships Act and 24 CFR 92.351 and per DCA policy for all CHIP awards.

#### Handicapped Accessibility

**The HOME regulations require adherence to the three following regulations governing the accessibility of federally assisted buildings, facilities and programs:**

1. Americans with Disabilities Act (42 U.S.C. 121310);
2. 47 U.S.C. 155, 201, 218 and 225;
3. Fair Housing Act implementing regulations at 24 CFR 100.205 for design and construction requirements of multi-family dwellings; and,
4. Section 504 of the Rehabilitation Act of 1973.

## **Section 2. *Employment and Contracting***

HOME regulations require that State Recipients comply with the regulations listed below governing employment and contracting opportunities. These concern equal opportunity, labor requirements and contracting/procurement procedures.

### Equal Opportunity

- ◆ Equal Employment Opportunity Executive Order 11246, As Amended, and implementing regulations at 41 CFR Part 60;
- ◆ Section 3 of the Housing and Urban Development Act of 1968; and
- ◆ Minority and Women's Business Enterprise under Executive Orders 11625, 12432, and 12138 and Section 281 of the National Affordable Housing Act and 24 CFR 85.36.

### Labor Requirements

- ◆ Davis Bacon and Related Acts (40 U.S.C. 276 (A) – 7);
- ◆ Contract Work Hours and Safety Standards Act, As Amended (40 U.S.C. 327 – 333);
- ◆ Copeland (Anti-Kickback) Act (40 U.S.C. 276 c); and
- ◆ Fair Labor Standards Act of 1938, As Amended (29 U.S.C. 201 et seq.).

### Contracting and Procurement

- ◆ Procurement Standards at 24 CFR 85.36 and for non-profit organizations at 24 CFR Part 84;
- ◆ HOME Program Conflict of Interest Provisions at 24 CFR 92.356; and,
- ◆ Debarred, Suspended or Ineligible Contractors at 24 CFR Part 5.

## **Section 3. *Environmental***

- ◆ National Environmental Policy Act of 1969 (NEPA) and the related authorities listed in HUD's implementing regulations at 24 CFR Parts 50 and 58.

## **Section 4. *Site and Neighborhood Standards***

- ◆ Title VI of the Civil Rights Act of 1964
- ◆ Fair Housing Act and Executive Order 11063

## **Section 5. *Lead Based Paint***

- ◆ Section 1012 and 1013 of the Residential Anti-Lead Based Paint Hazard Reduction Act of 1992, which is Title X of the Housing and Community Development Act of 1992, and implementing regulations at 24 CFR Part 35.

## ***Section 6. Acquisition and Relocation***

- ◆ Uniform Relocation Act (URA)
- ◆ Section 104(d) of the Housing and Community Development act, known as the Barney Frank Amendments

## ***Section 7. Financial Management***

- ◆ 24 CFR Part 85 ("Common Rule") and for non-profit organizations see 24 CFR Part 84;
- ◆ Federal OMB Circular A-133
- ◆ Federal OMB Circular A-87

## ***Section 8. Housing***

- ◆ The Truth in Lending Act (Regulation Z);
- ◆ Title I Consumer Protection Act (PL 90321);
- ◆ Construction Industry Licensing Board Act (O.C.G.A. Section 43-14-1, et seq.);
- ◆ Georgia Industrialized Building Act of 1982, As Amended (O.C.G.A. Title 8, Chapter 2, Article 2, Part 1 "Industrialized Buildings"; Part 2 Manufactured Housing [Mobile Homes]);
- ◆ Mandatory State construction codes, as well as the Georgia State Energy Code;
- ◆ Construction and Safety Standards at 24 CFR 3280 for new manufactured housing; and
- ◆ Senate Bill 423 Regarding Handicapped Accessibility Requirements
- ◆ Georgia Fair Lending Act

## ***Section 9. General***

- ◆ Title II of the National Affordable Housing Act of 1990, As Amended;
- ◆ 24 CFR Part 92, HOME Investment Partnerships Program;
- ◆ 24 CFR Part 5 A, 5.105, Other Federal Requirements; and
- ◆ Title 50, Chapter 18, Article 4, Official Code of Georgia, Georgia Open Records Act.

## ***Section 10. Other DCA Program Requirements***

### ***Historic Preservation***

In 1997, the State Historic Preservation Office (SHPO), DCA, and the Advisory Council on Historic Preservation, signed a Programmatic Agreement (PA) affecting all housing programs funded by DCA under both the Community Development Block Grant Program and the CHIP program. Whenever State Recipients are planning to rehabilitate potentially historic housing (any housing over 50 years old), the terms of the PA will permit local decision making about the manner in which such housing will be

treated. All State Recipients are required to follow the terms of the PA and to consult with local preservation professionals whenever planned rehabilitation activities exceed the thresholds of the Exempt Activities listed in the PA. A copy of the PA is included at Appendix J.

**Note:** Georgia Law requires that "all state, county and municipal records, except those which by order of a court of this state or by law are prohibited from being open to inspection by the general public, shall be open for a personal inspection of any citizen of this state at a reasonable time and place, and those in charge of such records shall not refuse this privilege to any citizen" (O.C.G.A. 50-18-70). This means that past and current records on the use of CHIP funds are required to be open for public inspection.

### ***Citizen Participation***

The SR must follow the Citizen Participation requirements as set forth in Chapter 1, Section 3.

## Chapter 5 – Meeting the “Other Federal Requirements” in Administering a Local CHIP Program

The following sections provide additional details regarding some of the most important other federal requirements.

### Section 1. Environmental Review Requirements

**General Environmental Condition:** Environmental review responsibilities as outlined in this section are a general condition of all CHIP grants and must be completed prior to implementation and committal (obligation) of any funds for the approved project. Generally this is accomplished through submittal of the proper documentation as outlined below.

The federal regulation governing the environmental review process is 24 CFR Part 58 “ENVIRONMENTAL REVIEW PROCEDURES FOR ENTITIES ASSUMING HUD ENVIRONMENTAL RESPONSIBILITIES” and can be found at Appendix T this Manual or on the Web at:

<http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&tpl=%2Findex.tpl>

A recipient may not drawdown, obligate or expend funds for a covered activity until DCA has approved the Request For Release of Funds and Certifications, unless the recipient has completed and/or submitted a Finding of Exemption and a Statutory Checklist (if applicable) as specified in this section.

The recipient's certifying official is responsible for ensuring that all environmental requirements are met and must sign any official environmental documents.

The certifying official must be the chief elected officer or a person designated as the certifying official by resolution of the governing body.

**The Environmental Review Record (ERR):** Each CHIP program must have a written record of the environmental review undertaken. The purpose of this file is to document that the grantee has complied with all environmental laws and regulations and considered the environmental effects of the project prior to committing funds for construction.

**This written record or file is called the "Environmental Review Record" (ERR) and must be available for public review.** It must contain a description of the program and of each of its activities, as well as any other document, notice or information, and public comments received pertinent to the environmental review carried out by the Recipient. The ERR will vary in length and content depending upon whether the activities are exempt from all environmental reviews, categorically excluded from NEPA requirements, are found to have no significant impact on the environment, or require preparation of a full environmental impact statement.

The Environmental Review Record generally will contain the following documents:

- ◆ Environmental Assessment Format II and attachments (maps, plans, etc). (Unless the project is exempt or excluded, such as projects consisting entirely of housing rehabilitation and/or down payment assistance)

- ◆ Finding of Exemption for grant administration and other exempt activities.
- ◆ Statutory Checklist and Individual Site Screen form for each address assisted
- ◆ Certification of Categorical Exclusion
- ◆ Copies of Environmental Public Notices (including proof of publication), if required, including:
  - ◆ Notice of Intent to Request Release of Funds (NOIRROF) or
  - ◆ Concurrent Notice of the Finding of No Significant Effect and Notice of Intent to Request Release of Funds,
  - ◆ Notice of Early Public Review ( if Floodplains and wetlands are effected),
  - ◆ Notice of Explanation (if Floodplains and wetlands are affected).
- ◆ Correspondence with environmental regulatory agencies (including documentation that the Concurrent Notice was submitted).
- ◆ Comments received pursuant to the Public Notices and the response from the local government.
- ◆ Evidence the Request for Release of Funds (RROF), Finding of Exemption and Statutory Checklist was submitted to DCA, and
- ◆ Release of Funds letter from DCA.

The basic steps in the environmental review process in compliance with the National Environmental Policy Act (NEPA) and other applicable environmental laws and regulations are as follows:

#### **Step 1: Exempt Projects/Activities:**

Determine if any activity is exempt from NEPA requirements and other environmental reviews. If it is exempt, the Recipient is only required to document in writing that the activity is exempt and meets the conditions for exemptions. This documentation must be maintained in the Recipient's ERR file. A sample Finding of Exemption is included as Form 20 in this manual. Use of this format is required as a means of establishing documentation and compliance.

A copy of the Finding of Exemption for grant administration, if that is the only exempt activity, does not have to be mailed to DCA. The Recipient shall maintain the Finding of Exemption for these activities in the Environmental review Record program files.

**All other activities found to be exempt or excluded must be included on a FOE mailed to DCA.** Once DCA has cleared the general conditions, funds may be drawn down using standard procedures for the activity exempted.

#### **Exempt Activities Include:**

- Environmental studies, including historic preservation clearances necessary to comply with applicable laws.
- Design and engineering costs associated with carrying out an approved eligible CDBG activity.
- Eligible administrative costs.
- Activities funded because of imminent threats to health and safety, if they do not alter environmental conditions and are for improvements limited to actions necessary only to stop

or control the effects of imminent threats or physical deterioration. (This includes most Immediate Threat and Danger Grants.)

- Public services that will not have a physical impact or result in any physical changes, including but not limited to services concerned with employment, crime prevention, child care, health, drug abuse, education, counseling, energy conservation and welfare or recreational needs;
- Inspections and testing of properties for hazards or defects;
- Purchase of insurance;
- Purchase of tools;
- Technical assistance and training;
- Activities to assist homebuyers to purchase existing dwelling units or dwelling units under construction, including closing costs and down payment assistance, interest buy-downs, and similar activities that result in the transfer of title.
- Affordable housing pre-development costs including legal, consulting, developer and other costs related to obtaining site options, project financing, administrative costs and fees for loan commitments, zoning approvals, and other related activities which do not have a physical impact.

- Any of the categorical exclusions listed in Step 2 below can also become exempt **provided** that there are no circumstances which require compliance with any other environmentally related federal laws (such as floodplains, wetlands or historic preservation) listed in Section 1. **The Statutory Checklist must be submitted with a FOE to DCA to document that they do not apply.**

### Step 2: Categorically Excluded Projects/Activities:

If the activity or project is not exempt from NEPA assessment requirements, the Recipient should next determine if it is categorically excluded from NEPA.

Categorical exclusion refers to a category of activities for which no environmental assessment and finding of no significant impact under NEPA is required, except in extraordinary circumstances (see 58.2(a)(3)) in which a normally excluded activity may have a significant impact.)

The following activities are excluded from NEPA requirements **but not from the requirements of the “other environmental laws or regulations” which are listed at 24 CFR Part 58.5** (See appendix T) Part 58.5 includes flood plain, wetland and historic preservation compliance requirements.

- Acquisition, repair, improvement, reconstruction, or rehabilitation of public facilities and improvements (other than buildings) when the facilities and improvements are in place and will be retained in the same use without change in size or capacity of more than 20 percent (e.g., replacement of water or sewer lines, reconstruction of curbs and sidewalks, repaving of streets).
- Special projects directed to the removal of material and architectural barriers that restrict the mobility of and accessibility to elderly and handicapped persons.
- Rehabilitation of buildings and improvements when the following conditions are met:



i. In the case of multifamily residential buildings:

Unit density is not changed more than 20 percent;

The project does not involve changes in land use from residential to non-residential;  
and

The estimated cost of rehabilitation is less than 75 percent of the total estimated cost of replacement after rehabilitation.

ii. In the case of non-residential structures, including commercial, industrial, and public buildings:

The facilities and improvements are in place and will not be changed in size or capacity by more than 20 percent; and

The activity does not involve a change in land use, such as from non-residential to residential, commercial to industrial, or from one industrial use to another.

- An individual action on a one- to four-family dwelling or an individual action on a project of five or more units developed on scattered sites when the sites are more than 2,000 feet apart and there are not more than four units on any one site.
- Acquisition or disposition of an existing structure or acquisition of vacant land provided that the structure or land acquired or disposed of will be retained for the same use.
- Combinations of the above activities.

The Environmental Review Record (ERR) must contain a well organized written record of the process and determinations made under this section.

If there are no circumstances which require compliance with any of the laws listed at 24 CFR Part 58.5, the Recipient, upon documentation of this fact, may reclassify a categorically excluded project as exempt from review and submit a Certification of Categorical Exclusion accompanied by the Statutory Checklist (see Step 1 above).

**Important Note:** If a Project consists of several activities, some of which are categorically excluded from review and some which are not excluded from review, the Recipient must conduct an environmental assessment on the **entire project**, (STEP 3).

**Step 3: Complete the Environmental Assessment:**

**Note: This step is not required for projects consisting entirely of rehabilitation and/or down payment assistance.**

If a project is neither exempt nor categorically excluded from review, the Recipient must prepare an Environmental Assessment using the Environmental Assessment, Format II and a Statutory Checklist for the entire project. Note that the project includes all activities, no matter what the funding source.

The Environmental Assessment, Format II, is located at Form # 21 in this manual. The Statutory Checklist is located at Form # 3 in this manual. For assistance, the Recipient should contact Mr. Rick Huber, Compliance Manager at (404) 679-3174 or Ms. Kay Garrison at (404) 679 – 0573.

When completing the environmental assessment, the Recipient should review the following essential points:

1. Complete one assessment for the entire project, including all component activities no matter what the source of funds.

2. Document how each item on the checklist was considered, including how determinations of "not applicable" were made. Documentation should include the person(s) contacted, the date of contact, and/or the authority/report being used as documentation. DCA has a technical assistance guide for documentation sources.
3. Consider and discuss all alternatives to the project, including different locations, and the "no build alternative".
4. Consider and discuss any possible mitigation measures to minimize or alleviate any possible negative effects.
5. Anticipate any possible citizen or public interest group objections and include an assessment of their concerns.
6. Coordinate the assessment with all agencies responsible for environmental compliance, such as Georgia Department of Natural Resources, U.S. Fish and Wildlife Service, etc.

**Step 4: (For projects which consist entirely of down payment assistance)**

1. Submit the Certification of Categorical Exclusion (not subject to Part 58.5)

**Step 5: (For projects which include rehabilitation of undesignated sites)**

1. Establish an Environmental Review Record which includes a description of the Tiered Environmental Review
2. Complete the Tier 1 Statutory Checklist
3. Publish the Notice of Intent to Request Release of Funds (NOIRROF)
4. Submit the Request Release of Funds and Certification (RROF)
5. Complete and file in ERR the Individual Site Screen Form for each case

**Floodplain and Wetland Compliance Requirements**

If any activity is proposed to take place in a designated 100-year floodplain or a wetland area, the Recipient must do the following prior to completing the environmental review:

1. Provide early notice and information to the public and interested parties so they can comment. Publish "Notice of Early Public Review". It must be published at least 15 days prior to the "Concurrent Notice", in the same manner as the "Concurrent Notice", and sent to the same agencies and groups, as well as the Federal Emergency Management Agency (FEMA). (3003 Chamblee-Tucker Rd, Atlanta, Ga. 30341 Telephone: (770) 220-5224)
2. Identify and evaluate practical alternatives, and possible adverse impacts. Use the Environmental Assessment Checklist to document this step.
3. Where avoidance of floodplains or wetlands cannot be achieved, design the project so as to minimize effect to or from floodplain or wetlands.
4. Prepare and circulate a "Notice of Explanation" that there is no practicable alternative to locating an action in or affecting a floodplain or wetland. The same audience and means of distribution used in #1 above should be used for this finding. This second notice can be published at the same time as the "Concurrent Notice" concerning environmental review.

Copies of the two required notices are found in the Appendix.

**Additional Wetland Compliance Requirements**

All Recipients must also comply with Executive Order 11990 and Section 404 of the Clean Water Act which pertain to protection of wetland areas.

Executive Order 11990 is a public notification, planning, and review process similar to the process described for floodplain compliance. (Notice of Early Public Review and Notice of Explanation.) As part of that process, if a wetland must be effected, a Section 404 Permit from the Army Corps of Engineers may be required.

If required, the Section 404 Permit must be obtained prior to publication to the Notice of Explanation.

Each step must be documented in your ERR and completed prior to publication of the Concurrent Notice or FONSI.

The initial step is to determine if your project is located in a wetland area. This is best done by consulting wetland maps that are available through the U.S. Fish and Wildlife Service for most of Georgia. Contact the Georgia Geologic Survey, Room 400, 19 Martin Luther King, Jr. Drive, Atlanta, Georgia 30334. Telephone: (404) 656-3214. If a map is not available, contact the Federal Fish and Wildlife Service, (404) 331-3580.

If the activity is located in a wetland area, a mitigation plan to deal with possible adverse effects may be required by the Corps of Engineers as part of the Section 404 permit.

### **Historic Preservation (Section 106) Compliance**

All CHIP grants (other than down payment assistance) are subject to compliance with Section 106 of the National Historic Preservation Act and the Regulations of the Advisory Council on Historic Preservation (36 CFR Part 800). This is accomplished through compliance with the Programmatic Agreement described in the next section.

The Advisory Council web site has additional information about the regulation at <http://www.achp.gov/work106.html>.

### **Housing Activities Compliance with Section 106**

During 1997, DCA entered into a Programmatic Agreement with the State Historic Preservation Division and the Advisory Council on Historic Preservation. This Agreement changes the way historic preservation compliance works for housing related projects and is applicable to **all** housing activities **except down payment assistance**. A copy of the Programmatic Agreement is available on DCA website.

Compliance with Section 106 regulations must be completed as part on the Site Specific Review

Special Conditions related to historic preservation concerns and compliance may be placed on grants identified by the Historic Preservation Division at Ga. DNR. These conditions, if present, must be cleared before funds are obligated for construction.

**ENVIRONMENTAL REVIEW FORMS**  
(Located in the forms section of this manual)

- |   |
|---|
| <ul style="list-style-type: none"> <li>➤ Finding of Exemption (FOE) – Form # 20</li> <li>➤ Certification of Categorical Exclusion (Subject to Part 58.5) - (for Rehabilitation)</li> <li>➤ Certification of Categorical Exclusion (Not subject to Part 58.5) - (for Downpayment Assistance)</li> <li>➤ Statutory Checklist – Form # 3</li> <li>➤ Public Notice of Intent to Request Release of Funds (NOIRROF)</li> </ul> |
| <ul style="list-style-type: none"> <li>➤ Request for Release of Funds and Certifications Form (RROF) – Form # 23</li> <li>➤ Site Specific Review Form</li> </ul>  |
| <ul style="list-style-type: none"> <li>➤ Notice of Early Public Review (for floodplain and/or wetland compliance) – Form # 24</li> </ul>  |
| <ul style="list-style-type: none"> <li>➤ Notice of Explanation (for floodplain and/or wetland compliance) – Form # 25</li> </ul>  |

***Contact Rick Huber at (404) 679-3174 for assistance with environmental requirements.***

## **Section 2. Labor Standards and Requirements**

The major applicable laws and regulations relating to labor standards are:

- The Davis-Bacon Act.
- The Contract Work Hours and Safety Standards Act.

In addition, the U.S. Department of Labor (DOL) has issued Regulations which supplement the laws listed above. Please note that Labor Standards laws and regulations are also applicable to contracts administered by another party on behalf of the SR, including Regional Development Centers (RDCs), Consultants, etc. The SR must remember that it is ultimately responsible for its CHIP Program. Therefore, SRs are strongly encouraged to closely monitor their contracts. SRs are also required to maintain all applicable records in their official CHIP files.

A. Applicability to CHIP. Every contract for the rehabilitation or construction of housing that includes 12 or more units assisted with HOME funds (generally multi-family rental housing) must contain a provision requiring the payment of not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to the Davis-Bacon Act, to all laborers and mechanics employed in the development of any part of the housing. Such contracts must also be subject to the overtime provisions, as applicable, of the Contract Work Hours and Safety Standards Act.

The wage provisions must be contained in the construction contract so as to cover all laborers and mechanics employed in the development of the entire project, including portions other than the assisted units. Arranging multiple construction contracts within a single project for the purpose of avoiding the wage provisions is not permitted.

B. Single Family Housing. The wage provisions above only apply to single family housing, if a construction contract covers 12 or more housing units to be purchased or rehabilitated with CHIP assistance.

C. SRs, Sub-recipients, contractors, subcontractors, and other participants must also comply with regulations issued under these acts and with other Federal Laws and regulations pertaining to labor standards and to HUD Handbook 1344.1 (Federal Labor Standards Compliance in Housing and Community Development Programs), as applicable. SRs must require certification as to compliance with provisions of this Section before making any payments under contracts.

D. Volunteer Labor. The Davis-Bacon wage provisions do not apply to an individual who receives no compensation or is paid expenses, reasonable benefits, or a nominal fee to perform the services for which the individual volunteered and who is not otherwise employed at any time in the construction work.

E. Sweat Equity. The Davis-Bacon wage provisions do not apply to an individual or member of a family who provides labor in exchange for acquisition of a property for homeownership or provides labor in lieu of, or as a supplement to, rent payments.

*For assistance in complying with this requirement, please contact Pam Truittr at DCA, 404-679-5240 or 1-800-359-HOME.*

### **Section 3. Acquisition/Relocation**

The acquisition of property, including rights-of-way, permanent easements, fee simple acquisition, (but not temporary construction easements), demolition of occupied or occupiable housing units, and the displacement of any person or business in any project that includes CHIP funds is governed by federal law and regulation. Disposition or the sale of property acquired with federal funds is also regulated by state law. The major applicable related laws and regulations include:

1. The Uniform Relocation Assistance and Real Property Acquisition Act of 1970, as amended, (The Uniform Act) and as implemented by DOT regulations at 49 CFR Part 24. This law and regulation governs the acquisition of property and easements and also requires relocation benefits be paid to any person(s) (regardless of their income) or business displaced as a result of a CHIP project.
2. Section 104(d) of the Housing Community Development Act of 1974, as amended, and as implemented by HUD regulations at 24 CFR Part 570.606 and 24 CFR Part 42. This law requires the replacement of any occupied or occupiable "low and very low income housing unit" demolished or converted as a result of a CHIP assisted activity and requires additional relocation assistance (generally additional assistance beyond what would be required by the Uniform Act) for low and very low income persons actually displaced.
3. The Georgia Urban Redevelopment Act, OCGA, Section 36-61-1, et. Seq. This State law sets forth the requirements which must be followed when a public agency acquires private property for reuse or redevelopment by another private entity.

4. Real Estate Appraiser, Licensing and Certification Act, OCGA, 43-39A-1 through 43-39A-27 and the rules of the Real Estate Appraisers Board. These requirements are in addition to the minimum appraisal standards in the Uniform Act regulations.

**Before proceeding with any relocation activity or property acquisition** be sure to review the Uniform Act regulations, the HUD Handbook 1378 "Tenant Assistance Relocation and Real Property Acquisition", and applicable HUD regulations described above. DCA also offers written material, including the required brochures available in Spanish and English, and on-site compliance assistance.

In accordance with DCA policy, all efforts shall be taken by DCA and its grantees to minimize, to the greatest extent feasible, the potential for permanent displacement of individuals and businesses. However, whenever the possibility exists that a tenant or property owner may be either temporarily or permanently displaced as a result of an activity funded by CHIP, the SR is required to follow regulations described at 24 CFR 92.353 of the Final HOME Rule. Temporary and Permanent Relocation costs are eligible CHIP costs.

- A. Temporary Relocation of Renters. The following policies cover residential tenants who will not be required to move permanently, but who must relocate temporarily for the project. Such tenants must be provided:
  1. Reimbursement for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation, including the cost of moving to and from the temporarily occupied housing and any net increase in monthly rent/utility costs.
  2. Appropriate advisory services, including reasonable advance written notice of:
    - a. The date and approximate duration of the relocation;
    - b. The location of the suitable, decent, safe, and sanitary dwelling to be made available for the period;
    - c. The terms and conditions under which the tenant may lease and occupy a suitable, decent, safe and sanitary unit in the building/complex upon completion of the project; and,
    - d. The provisions for costs listed in A. 1 above.
- B. Temporary Relocation of Homeowners. Whenever primary services (electrical, plumbing, HVAC) will be disrupted for a 24 hour period or longer and whenever the scope of rehabilitation constitutes a threat to the health and safety of any resident during rehabilitation, it is the responsibility of the SR to require the homeowner to temporarily relocate to another dwelling unit.
- C. Displaced Person. A displaced person (defined in paragraph C.1 below) must be provided relocation assistance at the levels described in, and in accordance with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) (42 U.S.C. 4201-4655 and 49 CFR part 24.) A "displaced person" must be advised of his or her rights under the Fair Housing Act and, if the comparable replacement dwelling used to establish the amount of the replacement housing payment to be provided to a minority person is located in an area of minority concentration, the minority person also must be given, if possible, referrals to comparable and suitable, decent, safe, and sanitary replacement dwellings not located in such areas.

1. Definition of a Displaced Person. A displaced person means a person (family individual, business, nonprofit, or association) that moves from real property or moves personal property from real property, permanently, as a direct result of acquisition, rehabilitation, or demolition for a project assisted with CHIP funds.
2. Applicable Displacement Circumstances. Whenever circumstances conforming to those described at 24 CFR 92.353 (c)(2)(i)(A-C) occur, relocation benefits must be offered. (See 24 CFR 92, HOME Final Rule).
3. Ineligible Displaced Persons. Whenever circumstances conforming to those described in 24 CFR 92.353(c)(2)(ii)(A-D) occur, relocation benefits are not required. (See 24 CFR Part 93, HOME Final Rule).

**NOTE:** Before proceeding with any project awards, contract negotiation, property acquisition, or relocation activity which has the potential to cause any temporary or permanent relocation, be sure to review the HOME Regulation (24 CFR 92.353), the Uniform Relocation Act regulation (49 CFR part 24) , and HUD Handbook 1378 “ Tenant Assistance, Relocation and Real Property Acquisition”. Also, please see Form # 8 regarding the Required Notice to Seller. Also please see Form # 14, Seller Certification as to Tenant Occupancy and Form # 15, Guide Form Notice to Prospective Tenant.

## Section 4. *Housing Loan Program Regulations*

Whenever the SR, administrative agent, or Sub-recipient operates a loan program on behalf of homeowners or homebuyers, all federal Fair Lending and Equal Credit Opportunity laws are in effect. In addition, depending on the type of financial assistance being offered, the following lending regulations may apply to the CHIP program:

- A. The Truth in Lending Act (Regulation Z), Title I of the Consumer Credit Protection Act, 15 U.S.C.A. 1601. This federal law requires lenders (including SR's) to fully disclose, in writing, the terms and conditions of a mortgage, including the annual percentage rate and other charges. A Truth in Lending Statement must be conveyed to the borrower within three (3) business days after the lender's (including SRs) receipt of a written application. This is considered “early disclosure.” A final disclosure statement is provided at the time of loan closing. These statements must provide an accurate statement of the terms of the loan, especially the amount of interest paid over the life of the loan.
- B. Equal Credit Opportunity Act, 15 U.S.C. 1601 et seq. Regulation B was issued by the Board of Governors of the Federal Reserve System to implement the provision of the Equal Credit Opportunity Act (ECOA). The law was enacted in 1974 to make it unlawful for creditors to discriminate in any aspect of a credit transaction on the basis of sex or marital status. In 1976, through amendments to the Act, it became unlawful to also discriminate on the basis of race, color, religion, national origin, age, receipt of public assistance and the good faith exercise of rights under the Consumer Credit Protection Act.

The primary purpose of the ECOA is to prevent discrimination in the granting of credit by requiring banks and other creditors to make extensions of credit equally available to all creditworthy applicants with fairness, impartially and without discrimination on any prohibited basis. The regulation applies to consumers and other types of credit transactions.

- C. Real Estate Settlement Procedures Act (RESPA). RESPA requires the use of the HUD 1 Settlement Statement, and requires lenders to give borrowers advance notice of closing costs.

Additionally, DCA recommends that all loan closing documents be reviewed (can be an initial review of form documents as part of program start-up) by a local attorney knowledgeable about real estate and lending transactions. Real estate transactions involving Security Deeds, Restrictive Covenants, and other forms of secured loans must be conducted by a closing attorney who is acceptable to both the local government and the borrower. In order to gain financial efficiency, DCA recommends that the attorney selected to close any leveraged financing also be retained to simultaneously close the CHIP loan.

## **Section 5. *Fair Housing and Equal Opportunity (FH&EO)***

There are several federal laws and executive orders which address discrimination and economic opportunity. SRs must certify that they will conduct program activities in accordance with these federal mandates. The following federal requirements apply to CHIP programs:

- A. Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d. Title VI and implementing regulations, as amended, prohibits discrimination on the basis of race, color, national origin, religion, or sex, in program participation or the receipt of program benefits which are funded in whole or in part with federal funds, including CHIP.
- B. Title VIII of Civil Rights Act of 1968, 42 U.S. C. 3601 et seq. Title VIII and implementing regulations as amended, prohibits discrimination in the sale, rental, or financing of a dwelling to any person because of race, color, religion, sex, national origin, handicap, or family status.
- C. The Federal Fair Housing Act, 42 U.S.C. 3601 et seq. (1968 and the Georgia Fair Housing Act, O.C.G.A. 8-3-200 et seq.) The Fair Housing Acts requires SRs to affirmatively further fair housing and provide protection against the following acts, if they are based on handicap, race, color, religion, sex, national origin, or family status:
  - 1. Refusing to sell or rent to, deal or negotiate with any person per Section 804(a);
  - 2. Discriminating in terms or conditions for buying or renting Housing per Section 804(b);
  - 3. Discriminating by advertising that housing is available only to persons of certain family status, race, color, religion, sex or national origin per Section 804(c);
  - 4. Denying that housing is available for inspection, sale or rent when it really is available per Section 804(d).
  - 5. “Blockbusting” – persuading owners to sell or rent housing by telling them that minority groups are moving into the neighborhood per Section 804(e);
  - 6. Denying to anyone the use of or participation in any real estate services, such as broker’s organizations, multiple listing services or other facilities related to the selling or renting of housing per Section 806;
  - 7. Denying or making different terms or conditions for home loans by commercial lenders, such as banks, savings and loan associations and insurance companies per Section 805;



In addition, the Federal Fair Housing Act requires that all new rental housing be made accessible (ground floors minimally) to persons with disabilities in compliance with the Americans National Standard (ANSI A117.1), a copy of which can be obtained from the EEOC by calling (404) 331-4276.

- D. Affirmative Marketing. In order to affirmatively further fair housing practices in accordance with the HOME Act and 24 CFR 92.351, SRs must comply with the following requirements:
1. Develop and adopt an Affirmative Marketing Plan outlining marketing procedures and requirements which provide information and otherwise attract eligible persons (tenants or buyers) in the housing market area to the available housing without regard to race, color, national origin, sex, religion, familial status or disability;
  2. Require developers and owners of five (5) or more units of rental or homeowner housing to develop and adopt an Affirmative Marketing Plan (see D.1 above); and,
  3. All SRs and Developers of five (5) or more units of housing must develop an Affirmative Marketing Plan which conforms to the guidelines provided at Appendix A of this manual.

For more information on writing and adopting your plan, please contact:

*Richard Huber at DCA  
404-679-3174 or 1-800-359-HOME*

NOTE: The Affirmative Marketing Plan requirement is a Special Condition of the CHIP Award and SRs may not draw down any CHIP funds until such plan has been submitted to DCA for approval. See Appendix A for the Affirmative Marketing Guideform.

- E. Executive Order 11063 – Equal Housing Opportunity, as amended by Executive Order 12259. SRs must take all action necessary and appropriate to prevent discrimination based on race, color, religion, creed, sex, national origin, familial status or disability in the sale, rental, leasing or other disposition of residential property and related facilities, or in the use or occupancy thereof, where such property or facilities are owned or operated by the Federal Government, or provided with CHIP funds and in the lending practices with respect to residential property and related facilities of lending institutions insofar as such practices relate to loans insured, guaranteed or purchased by the U.S. Department of Housing and Urban Development (HUD).
- F. Executive Order 11246 – Equal Employment Opportunity, as amended by Executive Order 11375. The SR must agree to the following provisions:
1. Take affirmative action to ensure that applicants and employees are not discriminated against on the basis of race, color, religion, sex, or national origin;
  2. Post government supplied notices containing the provisions of this Section;
  3. State in all advertising that applicants will be considered without regard to race, color, religion, sex, or national origin;

4. Send notices to appropriate labor unions advising them of the SR's commitments and to post copies of these notices;
  5. Comply with all the provisions of this Order along with all of the rules, regulations and relevant Orders of the Secretary;
  6. Furnish information and reports as required by the Order and the relevant rules, regulations and Order of the Secretary and permit access to materials for the purposes of investigating the employer's compliance with the rules, regulations and order;
  7. Submit to the possible cancellation, termination, or suspension of the CHIP program, or to being declared ineligible for future government contracts in the event of noncompliance with this Section or the applicable regulations;
  8. Submit to the other sanctions provided for by this Order and the applicable rules, regulations and orders of the Secretary or as otherwise provided by law; and,
  9. Include this Section in all non-exempt subcontracts.
- G. Minority Business Enterprise Executive Orders 11625, 12432 and 12138. SRs must make reasonable efforts to encourage the use of minority and women owned business enterprises (MBE/WBE) in CHIP funded projects. The SRs is required to complete and submit to DCA for approval, an MBE/WBE Outreach Plan. *See Guideform at Appendix B.*

<p>NOTE: The MBE/WBE Outreach Plan requirement is a Special Condition of the CHIP Award and until submitted and approved (condition cleared), SRs may not draw down any CHIP funds.</p>
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For more information on writing and adopting your plan, please contact:

*Richard Huber at DCA  
404-679-3174 or 1-800-359-HOME*

- H. The Age Discrimination Act of 1975, 42 U.S.C. 6101-07. This Act and its implementing regulations, as amended, prohibit discrimination against any person on the basis of age;
- I. Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794. SRs must comply with Section 504 of the Rehabilitation Act of 1973, as amended. HUD published implementing regulations (24 CFR Part 8) as a Final Rule on June 2, 1988. The general requirement is that no otherwise qualified individual with handicaps shall, because an SR's facilities are inaccessible to or unusable by individuals with handicaps, be excluded for participation in, denied benefits, or otherwise be subjected to discrimination under any program or activity that receive CHIP assistance. The definition of handicapped includes physical and mental factors and also includes those who may be regarded as handicapped. Building accessibility and employment practices are governed by Section 504.
- J. Americans With Disabilities Act of 1990 (ADA., 42 U.S.C. 12116 et seq.) Prohibits discrimination in employment on the basis of disability (Title I) and prohibits

discrimination on the basis of disability in state and local government services (Title II). Transitional housing must be in compliance with Title III of the ADA including but not limited to the Americans with Disabilities Act Accessibility Guidelines (ADAAG).

- K. Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 171U et seq.) which requires that, to the greatest extent feasible, opportunities for training and employment arising in connection with planning and carrying out any project assisted with HOME funds that receives in excess of \$200,000 (or in excess of \$100,000 to a single contractor) in Federal Funds, be given to low-income persons residing within the program service area. In addition, to the greatest extent feasible, contracts for work (of all types) to be performed in connection with any project must be awarded to business concerns, including but not limited to individuals or firms doing business in the field of planning, consulting, design, maintenance or repair, which are located in or owned in substantial part by persons residing in the program service area.

## Chapter 6 – CHIP Programmatic Requirements

The CHIP program is regulated by the U.S. Department of Housing and Urban Development (HUD) in conformance with 24 CFR part 92, the HOME Final Rule. While each local program must be regulated by a DCA approved program plan (DCA 5, 7 and 8 of your application) and locally adopted Policies and Procedures, HOME regulations provide the basis for all program activity. The following provides additional information on the major provisions of the HOME regulations having the greatest impact on local program design and operation, as well as the ongoing responsibilities of program administrators, owners, and residents.

### **Section 1. *Defining a CHIP Project***

Under HOME regulations, funds cannot be committed to a project until a written legally binding agreement has been executed for the identifiable property. Therefore, no HOME funds can be committed for a homeowner rehabilitation (or reconstruction), homebuyer or rental project until address information is available. All CHIP homebuyer and homeowner rehabilitation projects under HOME are considered separate projects and are recorded as separate activities in the HUD IDIS system.

### **Section 2. *Committing Funds to a Specific Project***

The HOME regulations require at 24 CFR 92.2 that construction or rehabilitation be reasonably expected to start within 12 months (6 months for acquisition of property only). When committing HOME funds to a project, the State Recipient must have immediate plans to produce such housing.

State Recipients with projects experiencing significant delays must document their files concerning the causes for the delays, and assess whether there is a likelihood that the project will go forward. The State Recipient must keep DCA informed of its concerns.

### **Section 3. *Meeting Your Approved Form of Subsidy***

While HOME allows virtually any form of financial assistance or subsidy to be provided for eligible projects and to eligible households, each State Recipient set forth their planned form of subsidy in their approved FFY 2009 CHIP grant award. Most of the awards provided for deferred loans, both forgivable and repayable. These loans are not fully amortized. Instead, some, or even all, principal and interest payments are deferred to some point in the future. Deferred loans require the property to be used as security for repayments of any CHIP amount due. Please refer to the section entitled "Written Agreements" at the end of this chapter to ensure that the appropriate CHIP loan documents are used to secure the State Recipient's interest in the CHIP loan.

### **Section 4. *Meeting Your Approved CHIP Finance Plan as to Amount of Subsidy***

While the HOME regulations set forth both a maximum amount of subsidy and a minimum amount of subsidy for a HOME assisted project as set forth in Chapter 3 of this Manual, each FFY 2009 State Recipient local program is regulated by a DCA approved finance plan. This plan is included in the DCA-5, DCA-7 and DCA-8 forms of your approved FFY 2008 approved CHIP application. The plan must also be clearly set forth in the State Recipient's CHIP Program Policies and Procedures.

It is incumbent upon a State Recipient to administer its local CHIP program in accordance with the approved award. In keeping with the HOME requirements, the following applies:

**Minimum CHIP Investment Per HOME Regulations:**

The State Recipient must invest a minimum of \$1,000 in CHIP funds per CHIP-assisted unit.

**Maximum CHIP Investment Per HOME Regulations:**

The State Recipient cannot invest more CHIP funds per unit than the limits set by HUD under Section 221 (d) 3 of the National Housing Act for elevator-type projects that apply to the area in which the property is located. These limits are set forth in Part 1 under "Amount of Subsidy."

**Subsidy Layering**

Per the HOME regulations, the State Recipient cannot commit or invest CHIP funds in a project that does not conform to its own underwriting guidelines (adopted under the local CHIP Program Policies and Procedures). The State Recipient cannot invest any more CHIP funds, in combination with other governmental assistance, than is necessary to provide affordable housing. Documentation to support a subsidy layering analysis is required to be maintained in each project file.

**Maximum CHIP Amount By Activity and Minimum Required Other Funds Per Your Local Program Finance Plan**

Each FFY 2009 State Recipient has an approved maximum amount of CHIP funding by activity as well as an approved minimum amount of "other" or leveraged funds necessary to complete the total project.

**Maximum CHIP Amount By Activity Per Your Approved Local Program Finance Plan**

The maximum amount of CHIP funding for homeowner rehabilitation projects (including homeowner reconstruction) is exclusive of the costs of lead hazard control activities, lead project delivery fees and regular project delivery fees. However, the maximum amount of CHIP funding for homeowner rehabilitation projects includes all other soft costs including legal fees, homeowner counseling fees (if any, and, if not paid for out of administration) and any other hard and soft costs of completing the project.

The regular project delivery fees and lead project delivery fees for homeowner rehabilitation projects and homeowner reconstruction are considered a grant to the homeowner. Grant agreements between the State Recipient and the homeowner for the amount of the regular project delivery fees and lead project delivery fees are required. Therefore, the costs of the regular project delivery fees and lead project delivery fees are not included in the total amount of CHIP funding for purposes of determining the required affordability period, as you are granting the cost of these fees to the homeowner.

The maximum amount of CHIP funding for home buyer projects per your approved award and as set forth in the DCA-5 form is exclusive of the project delivery fee. However, the maximum amount of CHIP funding per project includes any other soft costs including the cost of homeownership counseling (unless being paid for out of administration), legal fees, closing fees and any other soft costs.

The State Recipient is required to execute a Grant Agreement for the project delivery fee with the CHIP client for both home buyer projects including down payment, closing costs or second mortgage assistance and homeowner rehabilitation projects. While grant agreements have always been required for homeowner rehabilitation projects, per DCA policy memorandum dated August 15, 2007, grant agreements are also required for the project delivery fee for homebuyer assistance projects.

**Requests to Exceed Maximum CHIP**

All requests to exceed the State Recipient's established and approved maximum CHIP amount as set forth in the State Recipient's approved award must be forwarded by mail to DCA for review, approval or denial.

Any cost that would increase the maximum would require DCA review and approval. This includes the cost of lead hazard control activities, increased costs due to change orders and other increases in cost that necessitates a request to exceed the maximum amount of CHIP funds by activity.

Request to exceed maximum CHIP amounts should be mailed to:

Mr. Steed Robinson  
Director  
Office of Community Development  
Georgia Department of Community Affairs

If the request to exceed maximum is due to the cost of lead hazard control activities, the request must include the following:

1. the regular rehabilitation work write-up and cost estimate;
2. the lead based paint risk assessment report, if applicable; and,
3. lead hazard reduction work write-up and cost estimate, based on the results of the lead based paint risk assessment.

Requests to exceed maximum for any other reason must also be mailed to DCA to the attention of Mr. Steed Robinson for review, approval or denial.

All requests to exceed maximum must include a cover letter setting forth the justification for the request. DCA will either approve the request to exceed maximum and issue a Grant Adjustment Notice or inform the State Recipient by letter if the request is denied.

**Use of Contingency Budget**

Any use of a budgeted contingency line item must fall within the CHIP maximum or a request to exceed maximum must be forwarded for DCA review.

**Minimum Required Other Funds Per Approved Local Program Finance Plan**

Each State Recipient approved finance plan includes a minimum amount of "other" or leveraged funds that the homeowner or homebuyer must provide to complete the total rehabilitation cost or the total acquisition cost of the project,

The minimum required other funds are typically expressed in local approved finance plans as either a percentage of the total costs or purchase price based on the household's level of income or are expressed as a fixed amount.

Regardless of the State Recipient's approved minimum, any deviations must be submitted to DCA for review and approval

It is important to note that if there is a change in total project costs due to change orders or unforeseen items, the minimum required other funds formula as set forth in the State Recipient's approved finance plan must be applied to the revised total cost of the project. If the CHIP client is unable to obtain or

provide the additional required amount of other funding, then an analysis and justification must be included in the request to exceed maximum.

### **Meeting Your General Property Improvements Limitations Per Your Approved Local Finance Plan**

Another DCA requirement regarding a State Recipient's approved finance plan involves general property improvements (GPI). DCA requires that CHIP funds cannot be used to pay for the costs of GPIs. DCA further requires that no more than forty (40) percent of other funds can be used toward GPIs. CHIP funds must be used to bring the property up to local and state codes.

Some State Recipients have approved finance plans that further restrict the amount of GPIs that can be made with other funds by either disallowing GPIs or limiting GPIs to amounts below the DCA requirement of 40 percent of other funds.

In developing work write-ups and cost estimates for CHIP homeowner rehabilitation projects, it is important to differentiate each line item on the work write-up as to whether it is a code violation or a GPI. The State Recipient's approved plan for GPIs can then be applied to the work write-up and cost estimate to ensure that the State Recipient's approved plan for GPIs is being accurately followed.

## **Section 5. *Eligible Costs***

The following costs are eligible under the CHIP program:

- A. **Eligible Development Hard Costs.** Eligible development hard costs are those costs required to construct or rehabilitate properties to meet applicable state and local building codes (includes Model Energy Code), and to meet State Recipients' locally adopted written standards for rehabilitation that ensure that HOME assisted housing is decent, safe and sanitary, and to make other essential improvements, including, but not limited to:
  - 1. Energy-related repairs and improvements;
  - 2. Accessibility improvements for disabled persons (whether to comply with ADA requirements or otherwise);
  - 3. Abatement of lead based paint hazards;
  - 4. Repairs and/or replacement of major housing systems in danger of failure; and
  - 5. General property improvements (in accordance with DCA policy) which are non-luxury in nature. DCA allows general property improvements to be made solely from "other or leveraged" funds in an amount up to 40% of the leveraged funds. General property improvements cannot be made with CHIP funds.
- B. **Soft Costs – Related soft costs** (costs incurred by the owner, paid to a third-party provider other than the SR and associated with the financing or development of reconstruction, new construction, rehabilitation or acquisition) are eligible costs. The following are related soft costs:
  - 1. Architectural, engineering or related professional services required to prepare plans, drawings, specifications or work write-ups (including the reasonable cost associated with compliance under the State Programmatic Agreement on Historic Preservation);

2. Costs to process and settle the financing for a project such as private lender origination fee, credit report, fees for title evidence, fees for recordation and filing of legal documents, buildings permits, attorney fees, private appraisal fees and fees for an independent cost estimate, and builder's or developer's fee that are reasonable and customary;
  3. Costs of a project audit that DCA may require with respect to the development of the project;
  4. Costs to provide information and services such as affirmative marketing and fair housing information to prospective homeowners and tenants as required by DCA;
  5. Impact fees; and,
  6. The initial flood insurance premium.
- C. Project Delivery Costs. Staff and overhead costs incurred by the SR (or administrative agent) directly related to carrying out the project and charged to a specific CHIP-funded project including, but not limited to:
1. Housing inspections and work specification preparation.
  2. Application and Loan processing;
  3. Progress payment inspections; and
  4. Housing counseling if the individual becomes a CHIP-assisted homeowner or tenant.

DCA permits SR's to charge a per unit project delivery fee (PDC) for each completed CHIP assisted housing unit. DCA increased maximum project delivery fees effective February 27, 2008 for all existing CHIP awards and for projects being developed for the FFY 2009 Annual CHIP Competition awards. The new project delivery fees are listed below. There was no change in the project delivery fees for manufactured housing. Please keep in mind that the new PDC's listed below are maximum amounts. Maximum amounts may only be charged to the applicable award when actual costs equal or exceed the maximum PDC available. Documentation in the form of detailed invoices must be submitted to the local government SR in order to receive PDCs. **It is the responsibility of SRs to maintain detailed project records reflecting the actual staff and overhead cost for the completed project.**

- For stick-built rehabilitation or re-construction projects, a maximum of up to \$2,500 per unit.
- For stick-build homebuyer assistance projects (down payment or second mortgage assistance ) including modular housing, a maximum of up to \$1,500 per unit
- For manufactured housing rehabilitation, a maximum of up to \$750 per unit.
- For manufactured housing including re-construction, down payment or second mortgage assistance on land for which the unit owner has a long term lease, a maximum of up to \$750 per unit.
- For manufactured housing including re-construction, down payment and second mortgage assistance if the land is owned by the unit owner, a maximum of up to \$1,000.

DCA will permit additional project delivery costs for projects requiring lead inspection and possible risk assessment and clearance:



1. If the project administrator is NOT doing the lead inspection and possible risk assessment and clearance, DCA will permit a \$100 per unit "lead project delivery cost" for procurement and oversight of the lead inspection and risk assessment and a \$400 "lead project delivery cost" for oversight of the lead hazard reduction construction work and clearance.
  2. If the project administrator is actually completing the lead inspection and possible risk assessment and providing the clearance, assuming the project administrator is certified to do so, DCA will permit a \$300 "lead project delivery cost for selecting, hiring and overseeing the lead hazard reduction construction contract and work.
- D. Administrative Costs: The following costs are eligible under the 5% administrative budget provision:
1. General program management, oversight and coordination. Reasonable costs of overall program management, coordination, monitoring and evaluation under one of two methods (must select one):
    - a. The entire salary, wages, and related costs allocable to the program for each person whose primary responsibility is the CHIP program; or
    - b. The pro-rated share of each individual who has any program responsibilities.
  2. Travel costs incurred for official business in carrying out the program.
  3. Administrative services performed under third party contracts or agreements, including such services as general legal services, accounting and audit services;
  4. Other costs for goods and services required for administration for the program including such goods and services as rental or purchases of equipment, insurance, utilities, office supplies, and rental and maintenance (but not purchase of office space).

Itemized invoices must be submitted to or prepared by the SR (if self administered) detailing the costs incurred in administering the award. **It is the responsibility of administrator or SR (if self-administered) to maintain detailed project records reflecting the actual staff and overhead cost for the completed project.**

**NOTE:** For further guidance on eligible Project Delivery Costs vs Administration see CPD Notice 96-09 on Administrative Cost and Project Related Soft Costs that can be accessed at: <http://www.hud.gov/offices/cpd/lawsregs/notices/1996/96-9.pdf>

- E. Other costs. There are several other miscellaneous costs which are also allowable. These costs include:
1. CHIP funds can be used for projects previously assisted with HUD funds. If other HUD requirements still apply to the property, then both the existing requirements and HOME requirements must be met. Projects receiving Section

8 Moderate Rehabilitation Program Assistance may not be good candidates for HOME funds because HOME maximum rent level may not be consistent with Moderate Rehabilitation rents;

2. Interim construction financing is an eligible CHIP cost;
3. Cost of legally required relocation payments and relocation assistance for temporarily relocated persons are eligible CHIP costs;
4. Refinancing of existing debt secured by housing is eligible only if the housing is being rehabilitated with HOME funds and is subject to the additional following restrictions:
  - a. 1-4 Family Owner-Occupied Dwelling Units only (contact DCA for other types of housing);
  - b. A minimum of 50% of CHIP funds are used for eligible hard costs;
  - c. Refinancing is required to reduce the owner's overall housing costs; and,
  - d. CHIP funds are used to refinance 1<sup>st</sup> mortgage debt.

NOTE: If a project that is funded with HOME funds is terminated before completion, the funds must be repaid to DCA's HOME Investment Trust Fund.

## ***Section 6. Meeting Your Approved CHIP Award with Respect to Property Type, Property Value and Property Standards***

### **Property Type**

As set forth in Chapter 2, the HOME regulations require that to be eligible for CHIP homebuyer assistance, the property must serve as the purchaser's principal residence. To ensure that the prospective CHIP purchaser is aware of this critical HOME requirement, the applicant must sign and date the "Certification as to Income and Principal Residence," Form # 9, at application stage.

For homeowner rehabilitation projects, the property must be occupied by an income eligible homeowner and be the owner's principal residence. The prospective CHIP applicant must also sign and date the "Certification as to Income and Principal Residence" at the application stage.

For all projects, the State Recipient must also document the file with evidence supporting that the type of property being purchased is one of the types allowed by the HOME regulations as set forth in Chapter 2. Also, the SR must adhere to the number of approved manufactured homes versus site-built homes as set forth in the DCA-8 approved plan. Any deviation from the planned number of site-built units versus the planned number of manufactured housing units by each activity type must be reviewed, approved or denied by DCA. If any deviation is approved, DCA will issue a grant adjustment notice.

### **Meeting Your Approved CHIP Award as to Property Value**

As set forth in Chapter 2 of this Manual, the after-rehabilitation value of a property assisted with CHIP funds and the value of a property being purchased with CHIP funds cannot exceed \$200,160 as determined by HUD for the entire State of Georgia. All State Recipient project files must contain documentation to support either the "after-rehabilitation" value or the value of the home being purchased

with CHIP assistance per the methods listed in Chapter 2 of this Manual. It is important that the method chosen by the State Recipient be used consistently throughout the program award; that the estimate of value be documented based on the method selected by the State Recipient and contained in the project file; and, that the value is within the maximum allowed by HUD for the State of Georgia.

### **Loan to Value on CHIP Assisted Projects**

For CHIP down payment/second mortgage projects, State Recipients cannot approve CHIP funding where the combined debt (CHIP funding and other public and/or private financing) exceeds the loan to value limits as set forth by the underwriting, closing and funding criteria of the DCA Georgia Dream Homeownership first mortgage revenue bond program, Fannie Mae, Freddie Mac, USDA, FHA or VA. Any exceptions must be submitted to DCA prior to project set-up for review and approval. The appraised value used for this determination must be the approved appraisal for CHIP down payment assistance/second mortgage projects.

### **CHIP Sales Price**

The sales price of any home sold to a CHIP eligible household with CHIP assistance must be based upon the lesser of the sales price or appraisal.

Copies of the HUD-1 settlement statement, appraisal and sales contract are required to be contained in each project file.

### **Meeting Your Approved CHIP Award as to Property Standards**

HOME funded properties and, therefore CHIP assisted properties, must meet certain minimum property standards. The HOME regulation requires that all housing that is constructed or rehabilitated with HOME funds must meet all applicable local codes (including state codes), rehabilitation standards, ordinances, and zoning ordinances at the time of project completion.

### **Minimum Property Standards for CHIP- Assisted New Construction**

Since the State of Georgia has adopted mandatory residential **construction** codes, they are applicable to the CHIP program whether or not the local government enforces the codes. There are no exceptions on meeting these requirements for construction of CHIP assisted homes. The State of Georgia has adopted fourteen "state minimum standard codes." Of the fourteen minimum standard codes, there are eight (8) mandatory codes. Of the eight (8) mandatory codes, four (4) apply to all residential construction. These four mandatory codes are:

- ◆ National Electric Code;
- ◆ CABO One-and-Two Family Dwelling Code (**International Residential Code**);
- ◆ Georgia State Energy Code for Buildings; and
- ◆ International Plumbing Code.

Regarding the above listed codes, please note that the CABO One-and-two Family Dwelling Code is now called the **International Residential Code** for One-and-Two Family Dwellings, 2000 Edition, published by the Southern Building Code Congress International, Inc. (International Code Council). When used in conjunction with the Georgia Amendments, this code constitutes the official Georgia Minimum Standard One and Two Family Dwelling Code.

Please note that the chapters regarding Plumbing (Chapters 25 through 32) were deleted by the State of Georgia from the CABO/International Residential Code for One-and-Two Family Dwellings and the State substituted the Georgia State Minimum Standard Plumbing Code (International Plumbing Code).

Please also note that the chapters regarding Electrical (Chapters 33 through 42) were deleted by the State of Georgia from the CABO/International Residential Code for One-and-Two Family Dwellings and the State substituted for electrical requirements the Georgia State Minimum Electrical Code (National Electric Code).

The DCA Board specifically omitted the plumbing and electrical requirements of the International

Residential Code for One-and-Two Family Dwellings. Therefore, the plumbing requirements of the International Plumbing Code and the electrical requirements of the National Electric Code must be used for one and two family dwelling construction.

On July 1, 2004, the Uniform Codes Act was revised to make the above referenced four construction codes mandatory as part of the Georgia State Minimum Standard Codes. All of the above codes have Georgia amendments.

The Uniform Codes Act also made the following optional codes available for local government adoption and enforcement. Local governments choosing to enforce either of the optional codes must adopt the code(s) they wish to enforce, as well as the administrative procedures and penalties. The permissive codes for one and two-family dwellings are:

International Property Maintenance Code, 2003 Edition; and,  
International Existing Building Code, 2003 Edition

Please access DCA's web address for a copy of the State Minimum Property Codes at:

<http://www.development/ConstructionCodes/index.asp>

This web address will also provide information to determine if a specific local government has adopted either of the permissive codes and filed the adoption with the Georgia Department of Community Affairs as required by the Official Code of Georgia Annotated.

### **Minimum Property Standards for CHIP-Assisted Homeowner Rehabilitation**

The HOME regulation requires that all housing that is rehabilitated with HOME funds must meet all applicable local codes (including state codes) rehabilitation standards, ordinances, and zoning ordinances at the time of project completion.

The HOME regulations also require that the State Recipient have written standards for rehabilitation that ensure that the CHIP-assisted housing is decent, safe and sanitary.

It should be noted that the State of Georgia omitted Appendix J of the International Residential Code covering "Existing Buildings" in determining the Georgia Minimum Standard One-and-Two Family Dwelling Code.

The HOME regulations also require, in the absence of a local (or state) code for rehabilitation, that CHIP-assisted rehabilitation must meet, as applicable, either one of the three model codes:

Uniform Building Code (ICBO)  
National Building Code (BOCA)  
Standard (Southern) Building Code (SBCCI)

or

Council of American Building Officials (CABO) one and two family code

or

The FHA Minimum Property Standards (MPS) in 24 CFR 200.925 (for multifamily)  
200.926 (for single family).

Since the first four codes listed above, i.e. the ICBO, BOCA, SBCCI and the CABO have all now been combined into the International Residential Code, State Recipients have a choice to either rehabilitate a single family CHIP- assisted home up to:

the International Residential Code;

or

the FHA Minimum Property Standards at 24 CFR 200.926

or

State of Georgia locally adopted “permissive codes”

### **FHA Minimum Property Standards**

Not only have the four model codes referenced above merged into the International Residential Code, the FHA Minimum Property Standards (MPS) in 24 CFR 200.926 are no longer maintained by HUD as separate Minimum Property Standards. Instead HUD has accepted the model building codes, including over 250 referenced standards and local building codes in lieu of separate and prescriptive HUD standards, with one major difference.

The major area of difference between the HUD Minimum Property Standards and the national model codes is in the area of durability requirements. Since homes and projects funded by FHA-insured mortgages are typically the collateral for these loans and their lack of durability can increase HUD/FHA's financial risk in the event of default, HUD/FHA determined that the national model codes did not contain any minimum property requirements for the durability of such items as doors, windows, gutters, downspouts, wall coverings, kitchen cabinets and carpeting. The HUD/FHA MPS now includes minimum standards for these, and other items, to ensure that the value of an FHA insured home is not reduced by the deterioration of these components.

For information regarding the HUD/FHA Minimum Property Standards please access HUD's web address at:

<http://www.hud.gov/offices/hsg/sfh/mps/mhsmppsp.cfm>.

Therefore, based on the merger of these national model codes in the HOME regulations, including CABO into the International Residential Code, as well as the acceptance by HUD of the national model codes by reference including the additional durability requirements, single family homes being rehabilitated with CHIP assistance must meet at project completion either the:

International Residential Code including Appendix J, “Existing Buildings”

or

FHA Minimum Property Standards at 24 CFR 200.926

or

One of the State of Georgia permissive codes (International Property Maintenance Code, 2003 Edition or International Existing Building Code, 2003

Edition if adopted by the local government and filed with DCA as required by the Official Code of Georgia Annotated.

The locally adopted CHIP program policies and procedures must set forth the specific code that CHIP assisted homeowner rehabilitation projects will meet at project completion. If the State Recipient administering the CHIP award has adopted either one of the permissive codes (International Property Maintenance Code or International Existing Building Code), then the locally adopted CHIP program policies can set forth their locally adopted permissive code in lieu of the International Residential Code or the FHA Minimum Property Standards.

All State Recipients must employ a set of written rehabilitation standards for all housing interior, exterior, and systems repairs. The written rehabilitation standards will describe the methods and materials to be used when performing rehabilitation. The written rehabilitation standards must meet all applicable local and state codes, rehabilitation standards, ordinances and zoning ordinances. All CHIP-assisted projects must meet the State Recipient's written rehabilitation standards. The SR's written rehabilitation standards must be set forth in the locally adopted CHIP program policies and procedures as an exhibit.

#### **Minimum Property Standards for Acquisition (Down Payment/Closing Cost and/or Second Mortgage Assistance)**

State Recipients assisting CHIP applicants with down payment/closing cost assistance or second mortgage assistance must ensure that the property meets all applicable State and local housing quality standards and if there are no such standards or code requirements, the housing must meet the housing quality standards in 24 CFR 982.401 (Section 8 Housing Quality Standards).

See the important notes below concerning property standards for CHIP assisted housing.

1. New construction of housing must meet the current edition of the Model Energy Code published by the Council of American Building Officials, which is the Georgia State Energy Code listed above.
2. Housing that is constructed or rehabilitated with HOME (CHIP) funds must meet the accessibility requirements in the HUD regulation referenced in 24 CFR Part 8 that implements the Fair Housing Act and Section 504 of the Rehabilitation Act of 1973.
3. New construction of single family housing assisted with CHIP funds must meet the handicapped accessibility requirements of Georgia Senate Bill 443.
4. An owner of rental housing assisted with HOME (CHIP) funds must maintain the housing in compliance with all applicable state codes.
5. The site and neighborhood standards at 24 CFR 983.6(b) apply only to the new construction of rental housing.
6. Manufactured housing that is rehabilitated using CHIP funds must meet the SR's CHIP program adopted code requirements as set forth in the locally adopted CHIP program policies and

procedures and the SR's written rehabilitation standards.

### **Minimum Property Standards for Acquisition/Rehabilitation**

The following requirements apply to housing for homeownership that is to be rehabilitated after transfer of the ownership interest:

1) Before the transfer of the home ownership interest, the state recipient must:

- Inspect the housing for any defects that pose a danger to health; and
- Notify the prospective purchaser of the work needed to cure the defects and the time by which defects must be cured and applicable property standards met;
- The housing must be free from all noted health and safety defects before occupancy and not later than 6 months after the transfer.
- The housing must meet the property standards outlined above for housing that is constructed or rehabilitated with HOME funds.

### **Minimum Property Standards for HOME Rental Housing**

An owner of rental housing assisted with HOME funds must maintain the housing in compliance with all applicable state and local housing quality standards or code requirements, and if there are no such standard or code requirements, the housing must meet the housing quality standards in 24 CFR 982.401.

To assist you in determining the HOME Required minimum property standards that must be met by activity type, please see Appendix D.

### **Additional Standards and Requirements for Manufactured Housing**

- 1.. Manufactured Housing. Construction of all manufactured housing must meet the Manufactured Home Construction and Safety Standards established in 24 CFR Part 3280. These standards pre-empt state and local codes covering the same aspects of performance for such housing. State Recipients providing HOME (CHIP) assistance to install manufactured housing must comply with all applicable state and local laws or codes. Please refer to Appendix H, "Installation Requirements for Manufactured Homes," as set forth by the Office of the Georgia Safety Fire Commissioner, Manufactured Housing Division, Chapter 120-3-7, manufactured and mobile homes, Appendix A Regulations. Please note that these installation instructions shall be followed whenever the manufacturer's instructions do not stipulate certain installation requirements, or when clarification is needed, or when the manufacturer's instructions state that the issue is left to the regulatory authority having jurisdiction. For addition guidance on manufactured housing under the HOME program, please access HUD's web site address at:

<http://www.hud.gov/offices/cpd/affordablehousing/programs/home/topical/admin.cfm#notices>

2. It is generally advised that manufactured housing requiring more than \$5000 in total rehabilitation in order to bring the unit into compliance with local MPS or HQS should be considered for replacement. Replacement of the manufactured housing unit is considered Reconstruction for purposes of the CHIP program. Additionally, the maximum amount of total funding allowed for any manufactured home rehabilitation

activity is limited to \$5,000. DCA approval is required to exceed this amount on a per project basis.

3. Replacement Manufactured Housing must be new or standard housing in conformance with the National Manufactured Home Construction and Safety Standards Act of 1974 as amended. Manufactured Housing must be permanently affixed in accordance with HUD's Handbook 4930.3, *Permanent Foundations Guide for Manufactured Housing*.
  - a. DCA has established that "used" manufactured homes can be no more than 5 (five) years old to receive CHIP Reconstruction, down payment or second mortgage assistance.
  - b. DCA has established a maximum of \$5,000 per unit in CHIP funding that can be used toward the reconstruction of a manufactured housing unit or toward the down payment or second mortgage assistance if a "**used**" manufactured housing unit is provided as the reconstructed unit or the unit being purchased.
  - c. DCA has also established that a maximum of \$7500 in CHIP funding can be provided per unit for reconstruction, down payment or second mortgage assistance if the unit is a "**new**" manufactured housing unit.
4. Except for existing, owner-occupied manufactured housing that is rehabilitated with HOME funds, the manufactured housing unit must, at the time of project completion, be connected to permanent utility hook-ups regulations and be located on land that is owned by the manufactured housing unit owner or land for which the manufactured housing owner has a lease for a period at least equal to the applicable period of affordability per the HOME regulations.

### Lead-Based Paint

Lead –Based Paint Poisoning Prevention Act. (42 U.S.C. 4831-5 et al) and HUD I implementing regulations at 24 CFR part 35. Whenever housing under consideration for CHIP funding that was built before 1978 (including homeowner rehabilitation projects, acquisition projects, and homebuyer assistance projects), it is the responsibility of the SR to follow HUD's new regulation, "Requirements for Notification, Evaluation and Hazards in Federally Owned Residential Property and Housing Receiving Federal Assistance." The regulations can be accessed at:

<http://www.hud.gov/offices/lead/leadsaferule/LSHRFinal.21June04.rtf>

### Historic Preservation

Historic Housing Rehabilitation and New Construction in Historic Districts. Beginning in 1997, DCA and the State Historic Preservation Office (SHPO) began operating under a new Programmatic Agreement for Historic Preservation of Affordable Housing. The new Programmatic Agreement **exempts certain rehabilitation activities in** potentially historic (over 50 years old) units – and no historic review is necessary. When more extensive work is proposed for a potentially historic unit, the local government can now:

1. Hire a local Preservation Professional to determine eligibility of the unit for listing;
2. If unit is deemed eligible, the local government can work with the Preservation Professional to carry out more extensive rehabilitation, in accordance with standard approaches provided in the Agreement, than may be permitted by the Secretary of Interiors Standards;



3. If planned work exceeds that deemed acceptable for continued eligibility, the Preservation Professional can work with the local government through a Standard Mitigation Process that greatly streamlines the normal 106 Review Process.

By Virtue of signing the Statement of Special and General Conditions, each SRs agrees to comply with the terms of the Programmatic Agreement.

A copy of the Programmatic Agreement is included at Appendix G of this manual.

### **Meeting the HOME and CHIP Program Requirements on Written Rehabilitation Standards**

The HOME final rule requires each State Recipient to adopt written rehabilitation standards for rehabilitation work assisted with HOME funds.

This section will assist State Recipients understand:

- 1) written rehabilitation standards;
- 2) their function in the CHIP program; and,
- 3) how written rehabilitation standards differ from property standards.

#### **“Property Standards” Defined**

State and local codes are the property standards or the housing quality standards used to determine whether a housing unit is decent, safe and sanitary. They are the standards against which the actual physical condition of a property is judged in the inspection process. Using the property standard as a baseline, a housing inspector determines the scope of rehabilitation necessary to address the physical deficiencies of the unit and to bring the unit up to the standard or code (s).

The HOME final rule also requires that the standard for rehabilitation be included in the written agreement between the State Recipient and the homeowner.

#### **“Written Rehabilitation Standards” Defined**

Written rehabilitation standards establish the standards for the actual rehabilitation work that will bring substandard housing into compliance with the property standard or code(s). The written rehabilitation standard prescribes the method and materials to be used in the rehabilitation of the property. The written rehabilitation standards are sometimes referred to as “specs” or specifications, and include details such as the grade of lumber to be used, the number of nails per square foot, the type of material that can or cannot be used for doors serving as fire exits, the distribution pattern and material of roofing tiles, etc.

The written rehabilitation standards provide a common basis for contractor bids. This is particularly important because by ensuring that all contractors are bidding work using identical methods and materials, it enables the State Recipient to make an accurate determination of the cost reasonableness of bids. By holding all contractors to a single rehabilitation standard, consistent, high quality rehabilitation is assured.

For purposes of the CHIP Program, State Recipients must adhere to the methods and materials set forth in the locally adopted written rehabilitation standards as set forth in the CHIP program policies and procedures.

## **Section 7. *Meeting the Eligible Applicant Requirements of the CHIP Program***

As set forth in Chapter 2 of this manual, each State Recipient must use one-hundred (100) percent of its CHIP funds to assist households with incomes at or below eighty (80) percent of the area median income based on household size for the county within which the property is located as determined by HUD. Please see Appendix E for the HUD HOME program income limits.

### **Determining Income Eligibility of Applicants**

While the HOME regulation allows the use of one of three definitions of annual income to determine the eligibility of applicants for the HOME program, DCA requires that the SR utilize only one of the three methods. This method is referred to as the Section 8 annual income definition as defined in 24 CFR 5.609.

For all CHIP assistance, the Section 8 annual (or gross) income definition is required to be used in determining a household's eligibility for CHIP assistance.

HUD published a self-study guide to assist SR's in understanding the basic requirements in determining applicant eligibility. The guide sets forth what is to be included in income; what is not included in income; how to calculate a household's expected next twelve month income; how to calculate income from assets; and, also includes all forms required to calculate income as well as application forms and verification forms. The guide also includes case studies to test a reader's understanding of the key concepts.

Copies of the guide entitled "Technical Guide for Determining Income and Allowances for the HOME Program" can be accessed and ordered at HUD's website:

<http://www.hudclips.org/cgti/index.cgi>.

## **Section 8. *Meeting Your Approved Local Program Long Term Affordability Requirements***

As set forth in Chapter 2, to ensure that HOME (CHIP) investments yield affordable housing over the long term, HOME (and DCA for homeowner rehabilitation projects) impose occupancy and rent requirements, as applicable, over the length of the affordability period.

The table in Chapter 3, sets forth the required affordability periods based on the amount of CHIP investment in the property and the nature of the activity funded.

SR's may have applied for and been approved for affordability periods greater than those required by HUD and DCA. It is important to review your approved local award and ensure that the CHIP loan documents are completed in accordance with your approved local plan as set forth in the DCA-5 form.

## CHAPTER 7 – Written Agreements

### Section 1. *Written Agreements and Contracts*

Before disbursing any CHIP funds to any entity, the Participation Jurisdiction must enter into a written agreement with that entity. Before disbursing any HOME funds to any entity, a State Recipient either directly or indirectly (e.g. to a contractor on behalf of a borrower) to any entity, the SR must either enter into, or oversee the execution of, written agreements with that entity, including sub-recipients, contractors, and property owners, that ensure the proper use of HOME funds and compliance with applicable HOME regulations. Sub-recipients and administrative agencies must also enter into, or oversee the execution of, written agreements with or between any contractors, property owners, or other entities, prior to disbursing CHIP funds.

The following must be covered in all written agreements:

- A. Sub-Recipient Agreements. A sub-recipient is a public agency or non-profit organization selected to administer all or a portion of the Participating Jurisdiction's or a State Recipient's HOME program. Whenever the State Recipient is passing funding through a local Sub-Recipient, the State Recipient must enter into an agreement covering, at minimum, the following items:
  1. Use of the CHIP funds. The agreement must describe the use of the CHIP funds, including the task to be performed, a schedule for completing the tasks, and a budget. These items must be in sufficient detail to provide a sound basis for the State to effectively monitor performance under the agreement (or contract);
  2. Affordability and other Project Requirements. The agreement must require housing assisted with CHIP funds to meet the affordability requirements of 24 CFR 92.252 or 92.254, as applicable, and must require repayment of the funds if the housing does not meet the affordability requirements for the specified time period;
  3. Program Income. The agreement must state if program income is to be remitted to the State, SR, or kept by the Sub-recipient for additional eligible activities;
  4. Uniform Administrative Requirements. The agreement must require the Sub-Recipient to comply with applicable uniform administrative requirements, as described in 24 CFR 92.505 and Chapter 5 of this Manual;
  5. Other Project Requirements. The agreement must require compliance with all project requirements under CHIP as set forth in subpart F of 24 CFR Part 92.
  6. Other Program Requirements. The agreement must detail which responsibilities of the SR are being passed down to the Sub-Recipient or administrative agent, including but not limited to Affirmative Marketing and MBE/WBE Outreach requirements. The agreement must require the

Sub-Recipient to carry out each activity in compliance with all Federal laws and regulations described in subpart H of 24 CFR Part 92, except that the Sub-Recipient does not assume the State's responsibilities for release of funds under 24 CFR Part 92.352 and the intergovernmental review process in 24 CFR 92.357 does not apply to the Sub-Recipient.

7. Requests for disbursement of funds. The agreement must specify that the State Recipient may not request disbursement of HOME funds under the agreement until the funds are needed for the payment of eligible costs. The amount of each request must be limited to the amount needed.  
**Program income must be disbursed before the State Recipient requests funds from the state.**
  8. Reversion of Assets. The agreement must specify that upon expiration of the agreement, the Sub-Recipient must transfer to the Participating Jurisdiction any HOME funds on hand at the time of expiration and any accounts receivable attributable to the use of HOME funds.
  9. Records and Reports. The agreement must specify the particular records that must be maintained and the information or reports that must be submitted in order to assist the State Recipient in meeting its recordkeeping and reporting requirements to DCA;
  10. Enforcement of the Agreement. The agreement must provide for a means of enforcement of affordable housing requirements including deed restrictions, covenants, and loan agreements. In addition, the agreement must specify remedies for breach of the CHIP requirements. The agreement must specify that suspension or termination may occur if the sub-recipient or beneficiary fails to comply with any term of the agreement.
  11. Duration of the Agreement. The agreement must specify a time limit for funding that conforms to limits placed on the SR by DCA. In addition, depending on the type of program and responsibilities passed down to the Sub-Recipient, the agreement must specify the length of time the Sub-Recipient is responsible for any long term monitoring, reporting, and recordkeeping functions.
- B. If the Sub-Recipient provides HOME funds to for-profit owners or developers, non-profit owners or developers, homeowners or homebuyers, the Sub-Recipient must enter into a written agreement that includes the elements set forth in Section A (1 – 11) above.
- C. Written Agreement Between State Recipient and Administrative Contractor. If the State Recipient selects a contractor through applicable procurement procedures and requirements, the contractor must provide goods or services in accordance with a written agreement (the contract). For contractors who are administering all or a portion of the HOME program, the contract must include at a minimum the following provisions:
1. Use of the HOME funds. The agreement must describe the use of the HOME funds, including the tasks to be performed, a schedule for completing the tasks, a budget, and length of the agreement.

2. Program Requirements. The agreement must provide that the contractor is subject to the requirements of 24 CFR Part 92 that are applicable to Participating Jurisdiction, except that 92.505 and 92.506 do not apply, and the contractor cannot assume the Participating Jurisdiction's responsibilities for environmental review or decision making and action under 24 CFR 92.352. Where the contractor is administering only a portion of the program, the agreement must list the requirements applicable to the activities the contractor is administering.

D. Homebuyer and Homeowner Written Agreements.

1. For homebuyers, the State Recipient must enter into a written agreement that conforms to the requirements in 24 CFR 92.254 (a) including the value of the property, principal residence, lease-purchase, if applicable and the resale provisions. The agreement must specify the amount of the HOME funds, the form of assistance (e.g., grant, down payment, amortizing loan, deferred payment loan, the use of the funds (e.g., down payment, closing costs, rehabilitation) and the time by which the housing must be acquired. Please see Appendix L for the required CHIP Loan Agreement for Homebuyer projects.
2. For homeowners, the agreement must conform to the requirements in 24 CFR 92.254(b) and specify the amount and form of assistance, rehabilitation work to be undertaken, date for completion, and property standards to be met. Please see Appendix L for the required CHIP Loan Agreement for Homeowner projects.

E. CHIP Loan Documents

Home Buyer Projects. The State Recipient and the Borrower will execute three documents in connection with a CHIP down payment, closing cost and/or second mortgage assistance loan: a Loan Agreement as described above, a Security Deed, and a Promissory Note. Please see Appendix L for a general explanation of the documents and for the appropriate documents.

Homeowner Projects. The State Recipient and the Borrower will execute three documents in connection with a CHIP homeowner rehabilitation or re-construction project: a Loan Agreement as described above, a Security Deed, and a Promissory Note. Please see Appendix L for a general explanation of the documents and for the appropriate documents.

NOTE: The period of affordability begins on the date HUD receives a properly completed Project Completion Form.

- F. Rental Property. For Rental Property, the written agreement, in addition to the Real Estate Note and the Deed to Secure Debt, must also explain that the borrower must execute a Land Use Restriction (Restrictive Covenant) document which enforces the HOME rents, tenant income restrictions, minimum property standards, etc. Even if the current owner should sell the property during the applicable period of affordability, **the covenants set forth in the Real Estate Note, Deed to Secure Debt and Land Use Restriction Agreement remain in force for the required affordability period. For information regarding CHIP rental property requirements, please contact DCA, Office of Community Development.**

**NOTE:** The period of affordability begins on the date HUD receives a properly completed Completion Report from DCA. Therefore, all loan documentation must be written so that the end date of the Real Estate Note and Deed to Secure Debt correspond at a minimum to the appropriate number of years beyond the date contemplated for project completion.

**For example:** If the homebuyer is borrowing \$10,000 in CHIP funds, the Promissory Note and Deed to Secure Debt must be in effect for at least five years from the date HUD receives the Project Completion Report from DCA. You will need to estimate this date when you close the Loan and provide a comfortable margin of error in cases where the Project Completion Report is delayed.

- G. Construction Contract between contractor and borrower. This agreement must be between the borrower and a company that is providing construction services to the borrower. This document should contain provisions that define a sound and complete agreement including pricing, timeframes, general conditions (job site behavior, insurance requirements, licensing, draw procedures, change order procedures, warranties, etc), scope of work ( work write-up), material specifications and minimum workmanship, subcontractor requirements (licensed trades, etc.) and any other local requirements. In order to cover CHIP regulatory issues, the DCA Addendum to Construction Contract must be added to all construction contracts. Please see Appendix M.

## CHAPTER 8 - FINANCIAL MANAGEMENT

The financial management and administration of CHIP programs is regulated by the HOME Act and four federal circulars: Governmental entities are covered under 24 CFR Part 85 (The “Common Rule” – See Appendix R for the copy of the rule) and OMB Circular A-87; and Non-profit sub-recipients under OMB Circular A-122 and 24 CFR part 84.

This chapter attempts to clarify the requirements contained in the regulations and federal circulars. In addition, suggested formats and procedures have been included whenever appropriate.

### Section 1. *Financial Management System – General Requirements*

- A. Provide accurate, current, and complete disclosure of the financial activities funded by CHIP awards and adequately meet the reporting goals set forth in Chapter 1, Section 7 of this Manual – “Monitoring and Reporting Your Program’s Progress”. Approved budgets (Form DCA-7 and DCA-8) reflect costs **by activity** to be undertaken, as so do the requests for drawdown forms (DCA/CHIP-B) and the quarterly report forms (DCA/CHIP-D). Therefore, financial records should be established and maintained in such a manner as to facilitate the reporting and monitoring of expenditures and obligations **by activity**;
- B. Maintain records on a “project by project” basis that identify clearly and adequately the source and application of funds of all CHIP funded activities;
- C. Maintain effective control over and accountability for all funds, property, and other assets, safeguarding these assets and insuring that they are used solely for authorized purposes.
- D. Provide comparison of actual expenditures to budgeted expenditures;
- E. Include procedures to minimize the time elapsing between the drawdown of funds from DCA and the disbursement of those funds by SRs. A period of seven (7) days or less is permitted. In addition, draws made by the SRs on behalf of Sub-Recipients must conform to the same standards of timing as apply to draw made directly for DCA to SRs.
- F. Provide procedures for ensuring the reasonableness, allocability and allowability of cost in accordance with OMB Circular A-87 (or A-122 for non-profit Sub-Recipients) and the applicable grant award;
- G. Include source documentation to support the accounting records.
- H. Provide for audits made by qualified and independent audit firms of established management systems and internal control procedures. An audit shall be conducted annually and in accordance with Section 9 of this chapter entitled “Audit Requirements.”
- I. Maintain source documents (appropriation ordinances, purchase orders, invoices, journal vouchers, cash receipts, banks deposit receipts, etc.) that support all financial transactions relating to CHIP activities.

- J. Maintain accounting records that make it possible to identify the source and application of all funds committed to CHIP-supported activities. Local contributions to the program and income applied to the program should also be clearly identified.
- K. Include procedures to ensure that sound internal accounting controls are maintained over financial transactions and that effective control is maintained to safeguard physical assets.
- L. Ensure that costs incurred in CHIP activities are allowable only under the following conditions:
  - 1. The award has been properly accepted as described in Chapter 1, Section 1 of this Manual;
  - 2. Costs are incurred on or after the date of receipt of a Statement of Award by DCA.
  - 3. Costs for projects or activities are incurred only after all necessary environmental studies have been completed, and all applicable conditions have been satisfied.
  - 4. Costs are accounted for in accordance with Generally Accepted Accounting Principles (GAAP) and are not prohibited by Federal, State or local laws;
  - 5. Costs are authorized in the award made by DCA;
  - 6. Costs are incurred for activities eligible under the CHIP Program;
  - 7. All appropriate credits have been applied;

## **Section 2. *Suggested Accounting Procedures***

- A. Organization of the Accounting System
  - 1. One individual should be designated to oversee the financial transactions related to CHIP. This individual, who serves as fiscal coordinator, should approve all purchase documents, contract invoices, payroll actions, etc. that affect CHIP funds; however, this person should not perform the disbursing and recording functions which are typically accomplished by the accounting department;
  - 2. The CHIP accounting system should be designed to maximize internal control. The concept of internal control refers to policies and procedures of your jurisdiction designed primarily to safeguard assets such as cash, inventory, and equipment;
  - 3. The person designated as fiscal coordinator might be a member of the finance or accounting department or member of the chief elected official or city or county manager's staff. Where a community development department has been established, a fiscal coordinator may be designated within the department to perform these duties.



B. Fund Structure and Double Entry Bookkeeping

1. A separate special revenue fund entitled the "Community HOME Investment Program Fund" must be established in conformance with the Uniform Chart of Accounts (H.B. 491) requirements. This fund must be established for any grant with projected expenditures that exceed 2% of the general fund's budgeted total operating expenditures. CHIP moneys should be accounted for within this fund.
2. A complete set of general ledger and subsidiary accounts should be maintained for the fund. Accounting within this fund should be conducted on the double entry basis where debit (DR) and credit (CR) balances are maintained for each general ledger account and the sum of all debits equals the sum of all credits.
3. The first step in the accounting process is to establish all the accounting records and files that should be maintained. They are the following:
  - \* Open Purchase Order File
  - \* Open Contracts File
  - \* Pending Payment File
  - \* Pending Receipts File
  - \* Personnel Payroll File
  - \* Cash Receipts Register
  - \* Cash Disbursements Register
  - \* General Journal
  - \* General Ledger
  - \* Fixed Assets Ledger
  - \* Cash Control Ledger
  - \* Expenditure Summary Report
  - \* Receivable and Payable Subsidiary Ledgers, and
  - \* Permanent Files
4. Establishing the Accounting Records. The following steps are suggested:
  - a. Establish the **Open Purchase Order File**, which contains purchase orders that have been issued but not filed. These unfilled purchase orders should be filled in sequence according to purchase order number.
  - b. Establish the **Open Contracts File** with a Section for each open contract. Contract summary forms, a copy of the contract, contract invoices, and related correspondence should be filed in each Section.
  - c. Establish the **Pending Payments File**, which contains all invoices and payment vouchers that have been approved for payment. The supporting documentation should be filed by due date with periodic reviews of the file to ensure timely payment.
  - d. Establish the **Pending Receipts File**, which contains documents to identify payments expected to be received. When the amounts

are received, supporting documentation should be attached to the invoice or other form; the transaction should be recorded on the Federal Cash Control Register and posted to the Receivables Subsidiary Ledger; and the funds should be deposited on a timely basis.

- e. Establish the **Personnel Payroll File**, which contains a Section for each city employee who has worked on CHIP activities. For each employee, the file will contain the following:

- \* Personnel Service Rate Computation
- \* CHIP Personnel Timesheet
- \* Personnel Payroll Distribution Worksheet

Items within each Section should be filed by date.

- f. Establish the **Cash Receipts Register**. This register should be maintained in a loose-leaf binder to document all cash receipts.
- g. Establish the **Cash Disbursements Register**. This register should be maintained in a loose-leaf binder to document cash disbursements.
- h. **General Journal** entries are prepared to record accounting transactions that do not involve cash receipts or disbursements. Journal entries should be prepared for adjustments and special actions such as CHIP budget, year-end accruals, etc.
- i. Establish a **General Ledger** account page for each general ledger account in the chart of accounts. These pages can be maintained in a loose-leaf binder so that new accounts or continuation pages can easily be added.
- j. Establish the **Fixed Asset Ledger**. This ledger should be maintained in loose-leaf form to control all fixed assets acquired in whole or in part using CHIP funds.
- k. Establish a **Cash Control Register**. Enter the fiscal year at the top. A separate Cash Control Register should be maintained for each fiscal year.
- l. Establish an **Expenditure Summary Report** page for each budget line item. It is possible to combine more than one project on a page, depending on the volume of transactions. These pages should be maintained in loose-leaf form.
- m. Establish a **Receivable and Payable Subsidiary** Ledger if and when advances or loans are made or goods and services are purchased on account. The ledger should be maintained in loose-leaf form. A separate record should be established for each person who has received a loan or an advance, and for each individual vendor to whom money is owed.
- n. Establish the **Permanent Files**, which should parallel the organization of the aforementioned accounting records, files and reports.

### **Section 3. *Uniform Chart of Accounts***

In 1997, the Georgia General Assembly passed the Local Government Uniform Chart of Accounts and Reporting Act ( HB 491). Beginning in fiscal years ending in 2002, local governments must adopt and use a state published uniform chart in their accounting records; audited financial statements, including Comprehensive Annual Financial Reports (CAFRs); and reports to state agencies. All transactions must be classified in conformity with the fund, balance sheet, revenue, and expenditure classification descriptions contained in the state publications "Uniform Chart of Accounts for Local Governments in Georgia," available from DCA.

**If assistance in setting up your financial system is required, DCA should be contacted immediately.**

### **Section 4. *Recordkeeping and Retention Requirements***

- A. General Requirements. The SR must establish and maintain sufficient records to enable DCA and HUD to determine whether the SR has complied with all applicable HOME regulations, CHIP policies, and local program policies and procedures. In addition, all documentation pertaining to loans made with CHIP funds must be maintained in order to properly service loans, recapture funds, and satisfy notes.
- B. Records During Program Operation. During program operation, records pertaining to all program and project activities must be kept in a well organized manner (see sample filing format below) and in a location accessible to DCA (and others as needed).
- C. Records After Program Close-out. After program closeout, any required program monitoring records (rental projects only) and all loan documents shall be maintained in an accessible location for the required retention period after the terms of the last loan made have expired. In addition, any other written agreements must be maintained for the required retention period after the terms of the agreement have expired. All other programs records (and expired loan documents) may be stored in an acceptable record storage facility during the required retention period.
- D. Record Retention Period. All CHIP program records must be kept for a minimum of five (5) years after program close-out or five (5) years after the termination of all applicable periods of affordability, written agreements, and loan terms, whichever is longer. Records pertaining to any litigation, claim, negotiation, or audit, monitoring, inspection, or other action which may have started before the expiration of the required record retention period must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the required period, whichever is later.

Records covering displacement and acquisition must be retained for five years after the date by which all persons displaced from the property and all persons whose property is acquired for the project have received the final payment to which they are entitled.

- E. Sample Program Records Filing Format
  - 1. *Grant Application File*

- \* Copy of Application
- \* Correspondence about application
- \* Low/very low income data
- \* Target area surveys

2. *Grant Award File*

- \* Award Statement
- \* Special Conditions
- \* Revisions
- \* Correspondence with DCA
- \* Grant Adjustment Notices
- \* DCA Notices
- \* Sub-Recipient Agreement
- \* Policies and Procedures

3. *Application/Project Files*

- \* Application Form
- \* Income Verification Documents
- \* Correspondence
- \* Work Write-up and Cost Estimates
- \* Project Budget (Sources and Uses) Worksheets
- \* Other private/public funds
- \* Approvals/Denials
- \* Project Set-Up Reports
- \* Contractor Bid and Award Notice
- \* Contract
- \* Notices to Proceed
- \* Contractor Payment Request
- \* DCA Project Drawdown Request
- \* Change orders
- \* Inspection Reports
- \* Project Completion Reports
- \* Source of Verification of Property Ownership
- \* Award letter to borrower
- \* Proof of Ownership of Land for Mobile Home
- \* Documentation of Age of Home
- \* Actual Closing Cost
- \* Defective Paint Inspection
- \* Loan Agreement
- \* Grant Agreement
- \* Security Instrument
- \* Restrictive Covenant (Rental)
- \* Good Faith Estimate of Closing Costs
- \* Truth in Lending Disclosure Statement
- \* Three Day Right of Recision
- \* Proof Of Homeowner's Insurance
- \* Lead Based Paint Warning
- \* Notice to Seller per URA
- \* Seller Certification as to Tenant Occupancy
- \* Guide form Notice for Prospective Tenant

4. *Drawdown Information*

- \* Authorization Agreement for Automatic Deposits
- \* Authorized Signature
- \* Certification
- \* Requests for draw downs
- \* Invoices
- \* Copy of checks for each project draw

5. *Reports*

- \* Quarterly Progress and Expenditures
- \* Annual Program Income Report
- \* Final Wage Compliance Report (Davis-Bacon only)
- \* Other required reports (Affirmative Marketing, MBE/WBE)

6. *Citizen Participation Documentation*

- \* Dated Public Hearing Notices (s)
- \* Agenda and Minutes of hearing (s)
- \* List of Attendees
- \* Comments Received at hearing(s) and during program implementation (written and telephone comments)

7. *Environmental Review Record*

- \* Statutory Checklist
- \* Screening Checklist for each project
- \* Treatment Documentation for triggered regulations (e.g. Historic Preservation)
- \* Selected Professionals used for treatment (e.g. Qualified Professional selected under the Programmatic Agreement for Historic Preservation)

8. *Fair Housing and Equal Opportunity Files*

- \* Civil Rights Checklist
- \* Beneficiary Data (race, ethnicity, handicap, age, income of both applicants and recipients of direct benefits)
- \* Affirmative Marketing Plan, Actions taken, and Accomplishments
- \* MBE/WBE Outreach Plan, Actions taken, and Accomplishments

9. *Labor and Contract Documentation*

- \* Request for proposals
- \* Invitation to Bid
- \* Bid openings minutes
- \* Sample Contract (actual contracts in project files)
- \* Sample Contract Change orders (actual change orders in project files)
- \* Sample Contract budget spreadsheets
- \* Contract monitoring activities
- \* Contractor approval forms
- \* Sample Notice to Proceed
  
- \* Wage Rate Determinations (Davis-Bacon only)

- \* Payroll reports (Davis-Bacon only)
- \* Certification of compliance (Davis-Bacon only)
- \* Employee Interviews (Davis-Bacon only)
- \* HUD Debar Clearance Letter
- \* Proof of Contractor's Insurance
- \* Evidence of Site Inspections
- \* Evidence of Final Code Inspection
- \* Final Site Inspection
- \* Certification Statement of state and local codes
- \* Release of Liens by General Contractor and subcontractors
- \* Appliance/Mechanical Equipment Warranty
- \* Signed Applicant Satisfaction Statement
- \* Copy of Certificate of Installation for Insulation

10. *Financial Expenditure Documentation*

- \* Invoices
- \* Approved payment forms
- \* Check copies

11. *Audit*

While the format of the filing system may vary from community to community, the basic files listed above should be maintained by all communities to ensure compliance with the conditions of Grant award and facilitate day to day administration. In addition, on housing projects, individual case files should be maintained for each beneficiary as well as each certified contractor. Please see Appendices I and J for the Checklist for Down Payment Assistance Projects and the Checklist for Homeowner Rehabilitation Projects.

**To obtain copies of forms for the CHIP program, please contact Kay Garrison at (404) 679-0573**

**Please see Appendix I, Checklist for Down Payment Assistance and/or Second Mortgage/ New Construction. Please see Appendix J, CHIP Rehabilitation Document Checklist.**

## **Section 5. *Procurement Standards for Contracts Entered into by SRs***

The SR is the responsible authority with regard to all contracts entered into directly between the SR and contractor (including administrative agents), and without recourse to DCA regarding the settlement and satisfaction of all contractual and administrative issues arising out of procurements entered into, in connection with a CHIP program. Matters concerning violation of law are to be referred to such local, State or Federal authority as may have proper

jurisdiction. However, SRs are encouraged to contact DCA for assistance in any procurement matter.

The following procurement standards shall apply to all transactions entered into directly between the SR and the contractor:

A. SRs may use their own procurement regulations which reflect applicable State and local law, rules and regulations provided that all procurement made with CHIP funds meets the following standards:

1. The SR must maintain written codes or standards of conduct to govern the performance of its officers, employees or agents in contracting with and expending CHIP funds. SR's officers, employees or agents shall neither solicit nor accept gratuities, favors or anything of monetary value from contractors or potential contractors. No employee, official or agent of the SR may participate in the selection, or in the award or administration of a contract supported by CHIP funds if a conflict of interest, real or apparent, is involved. (*See Chapter 1, Section 8: Avoiding Conflicts of Interest*)

SRs may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value.

To the extent permissible by State or local law, rules or regulations, the SR's standards must provide for penalties, sanctions, or other disciplinary actions to be applied for violations of such standards by either the SR's officers, employees, or agents, or by contractors or their agents.

2. It is national policy to award a fair share of contracts to small, minority, and women business enterprises. Accordingly, affirmative steps must be taken to assure that small and minority businesses are utilized where possible as sources of supplies, equipment, construction and services. Each SR must develop a Minority and Women Business Enterprise Outreach Plan which conforms to the MBE/WBE Outreach Plan Guide form attached at Appendix B. This plan is required as one of the Special Conditions required of each SR prior to draw down.
3. All procurement transactions entered into by the SR regardless of whether negotiated or advertised and without regard to dollar value shall be conducted in a manner so as to provide maximum open and free competition. The SR must be alert to organizational conflicts of interest or non-competitive practices among contractors which may restrict or eliminate competition or otherwise restrain trade.

Examples of what is considered to be restrictive of competition include, but are not limited to:

- a. Placing unreasonable requirements on firms in order for them to qualify to do business;
- b. Non-competitive practices between firms;

- c. Organizational conflicts of interest; and
  - d. Unnecessary experience and bonding requirements.
4. SRs must have written selection procedures which provide, at a minimum, the following procedural requirements:
- a. A clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description must not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured and, when necessary, set forth minimum essential characteristics and standards to which it must conform to be satisfactory. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a "brand name or equal" description may be used as a means to define the performance or other important requirements of a procurement. The specific features of the named brand which must be met by bidders must be clearly stated;
  - b. All requirements which bidders must fulfill and all other factors to be used in evaluating bids or proposals;
  - c. Awards shall be made only to responsible contractors who possess the potential ability to perform successfully under the terms and conditions of a proposed procurement. Consideration must be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources;
  - d. Proposed procurement actions must be reviewed by SR officials to avoid purchasing unnecessary or duplicative items. Where appropriate, an analysis must be made of lease and purchase alternatives to determine which would be the most economical and practical procurement. Consideration should be given to consolidating or breaking out purchases to obtain a more economical proposal.
- To foster greater economy and efficiency, SRs are encouraged to enter into State and local intergovernmental agreements for procurement or use of potentially shared equipment and services.
- e. SRs must perform some type of cost or price analysis in connection with every procurement action including contract modifications and must only permit allowable costs to be included. *THE COST PLUS A PERCENTAGE OF COST METHOD OF CONTRACTING SHALL NOT BE USED. IN ADDITION, CONTRACTS WITH OTHER PUBLIC AGENCIES WILL ONLY ALLOW ACTUAL COST TO BE PAID. NO*



*PROFIT IS ALLOWABLE WHEN CONTRACTING WITH  
OTHER PUBLIC AGENCIES.*

- f. SRs must maintain records sufficient to detail the significant history of all procurements. These records must include, but are not necessarily limited to, information pertinent to rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the cost or price.
- g. SRs must maintain a contract administration system that insures that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase order.

B. Method of Procurement. There are 4 methods of procurement which can be used by SRs if authorized by locally adopted standards:

- 1. **Small purchase procedures** which can be used for procurement under \$25,000 and which require that price or rate quotations be obtained from an adequate number of qualified sources. These quotations should be clearly documented in the SR's files. Refer to the "Small Purchase Procedures Manual" for assistance. **NOTE that this method is not appropriate for procurement of professional services.**
- 2. **Competitive sealed bids (formal advertising)** where sealed bids are publicly solicited and a firm-fixed-price contract (lump-sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is lower in price.

In order for formal advertising to be feasible, appropriate conditions must be present, including, as a minimum the following:

- a. A complete, adequate and realistic specification or purchase description;
- b. Two or more responsible suppliers are willing and able to compete effectively for the grantee's business;
- c. The procurement lends itself to a firm-fixed price contract, and selection of the successful bidder can appropriately be made principally on the basis of price;
- d. A sufficient time prior to the date set for opening of bids, bids must be solicited from an adequate number of known suppliers. In addition, the invitation must be publicly advertised;
- e. The invitation for bids, including specifications and pertinent attachments, must clearly define the items or services needed in order for bidders to properly respond to the invitation;
- f. All bids must be opened publicly at the time and place stated in the invitation for bids;

- g. A firm-fixed-price contract award must be made by written notice to that responsible bidder whose bid, conforming to the invitation for bids, is lowest. Where specified in the bidding documents, factors such as discounts, transportation cost and life cycle cost must be considered in determining which bid is lowest; and,
    - h. Any or all bids may be rejected when there are sound documented business reasons that to do so would be in the best interest of the program.
- 3. **Competitive negotiation** is a method of procurement where proposals are requested from a number of sources and the Request for Proposal (RFP) is publicized. Negotiations should be conducted with more than one of the sources submitting offers, and either is fixed-price or cost-reimbursable type contract is awarded, as appropriate. SRs should perform a systematic analysis of each contract item or task to assure adequate service and to offer reasonable opportunities for cost reductions. Competitive negotiation may be used if conditions are not appropriate for the use of formal advertising. If competitive negotiation is used for procurement under a grant, the following requirements apply:
  - a. Proposals must be solicited from an adequate number of qualified sources to permit reasonable competition consistent with the nature and requirements of the procurement. The SR should send a letter with a copy of the RFP to a number of "known providers". When soliciting firms to develop application/administer projects, RFPs should be sent to at least 7 known providers. When soliciting engineering/architectural services, RFP's should be sent to at least 10 known providers. As a service to applicants, recipients and others, DCA maintains a list of professionals who have expressed an interest in proposing on CDBG/CHIP projects. This is not an "approved" list. DCA does not approve or disapprove professionals. This is the applicant or recipient's responsibility. The Request for Proposals must be publicized and reasonable requests by other sources to compete must be honored to the maximum extent practicable. A "Solicitation" request by the SR for contracts other than application development/project administration and architectural/engineering services must be specifically addressed to a list of several potential bidders identified by the City or County. To "publicize" the RFP, the SR must offer the RFP through publication in a newspaper with adequate circulation or publication by other means such that reasonable exposure to potential bidders can be expected.
  - b. The Request for Proposal must identify all significant evaluation factors, including price or cost where required and their relative importance.
  - c. The SR must have mechanisms for technical evaluation of the proposals received; for determining responsible bidders; and for engaging in written or oral communication with the providers in the selection process.

- d. Award may be made to the responsible bidders whose proposal will be most advantageous to the procuring party, price and other factors considered. Unsuccessful bidders should be notified promptly.
  - e. SRs may utilize competitive negotiation procedures for procurement of architectural/engineering professional services, whereby competitors' qualifications are evaluated and the most qualified competitor is selected subject to negotiation of fair and reasonable compensation.
  - f. If "competitive negotiation" is not successful, then the SR must receive "sole source" approval from DCA prior to contracting.
4. **Non-competitive** or "sole source" procurement requires prior DCA approval for professional services regardless of the contract amount and for all other contracts if over \$25,000 and may be used when:
- a. The item or service is available from only one source;
  - b. Urgent public need will not allow for the delay caused by advertising;
  - c. Although a number of bids were solicited, only one response was received; and,
  - d. such contracts shall be made with responsible contractors who possess the potential ability to perform successfully under the terms and conditions of a proposed procurement. Consideration shall be given to such matters as contractor integrity, record of past performance, financial and other technical resources, or accessibility to other necessary resources.
- C. **Contract Requirements.** The SR must include, in addition to the provisions needed to define a sound and complete agreement, the following provisions in all contracts and sub grants:
- 1. Contracts other than small purchases must contain such contractual provisions or conditions which will allow for administrative, contractual or legal remedies in instances where contractors violate or breach contract terms, and provide for appropriate sanctions and penalties.
  - 2. All contracts in excess of \$10,000 must contain provisions for terminations "for convenience" by SR, including when and how terminations may occur and the basis for settlement. In addition, all contracts must describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.
  - 3. All contracts awarded by SRs and their contractors or sub-grantees having a value of more than \$10,000 must contain a provision requiring compliance with Executive Order 11246, entitled "Equal Employment Opportunity", as amended by Executive Order 11375, and as supplemented in the Department of Labor regulations (41 CFR, Part 60).

4. All contracts and subcontracts over \$2,000 for construction or repair must include a provision for compliance with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (23 CFR, Part 3.. This act provides that each contractor or sub-grantee shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work to give up any part of the compensation to which he is otherwise entitled. The SR must report all suspected or reported violations to DCA. (See Chapter 5, Section 2 of this Manual entitled "Labor Standards."
5. Every Contract for the construction (rehabilitation or new construction) of housing that includes 12 or more units assisted with HOME funds must contain a provision requiring the payment of not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to the Davis-Bacon Act (40 U.S.C. 276a-5), to all laborers and mechanics employed in the development of any part of the housing. Such contracts must also be subject to the overtime provisions, as applicable, of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-332).

The contract for construction must contain these wage provisions if HOME funds are used for any project costs in 92.206, including construction or non-construction cost, of housing with 12 or more HOME assisted units. When HOME funds are only used to assist homebuyers to acquire single-family housing, and not for any other project costs, the wage provisions apply to the construction of the housing if there is a written agreement with the owner or developer of the housing that HOME funds will be used to assist homebuyers to buy the housing and the construction contract covers 12 or more housing units to be purchased with HOME assistance. (The wage provisions apply to any construction contract that includes a total of 12 or more HOME-assisted units. Once they are determined to be applicable, the wage provisions must be contained in the construction contract so as to cover all laborers and mechanics employed in the development of the entire project, including portions other than the assisted units. Arranging multiple construction contracts within a single project for the purpose of avoiding the wage provision is not permitted.

Participating Jurisdictions, contractors, subcontractors, and other participants must comply with regulations issued under these acts and with other Federal laws and regulations pertaining to labor standards and HUD Handbook 1344.1 (Federal Labor Standards Compliance in Housing and Community Development Programs), as applicable. Participating Jurisdictions must require certification as to compliance with the provisions of this section before making any payment under such contract.

6. Where applicable, all contracts awarded by SRs and Sub-recipients in excess of \$2,000 for construction contracts which involve the employment of mechanics or laborers must include a provision for compliance with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR, Part 5). Under Section 103 of the Act, each contractor shall be required to compute

the wages of every mechanic and laborer on the basis of a standard work day of 8 hours and a standard work week of 40 hours. Work in excess of the standard workweek is permissible provided that the worker is compensated at a rate of not less than 1 ½ times the basic rate of pay of all hours worked in excess of 40 hours in the workweek. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction, safety and health standards promulgated by the Secretary of Labor. These requirements do not apply to the purchases of supplies or material or articles ordinarily available on the open market. (See Chapter 5, Section 2 – “Labor Standards”)

7. All negotiated contracts (except those of \$10,000 or less) must include a provision that DCA, HUD, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the contractor which are directly pertinent to a specific grant program for the purposes of making audit, examination, excerpts, and transcriptions for 3 years after final payment to the SR or all pending matters are closed, whichever is longer.
8. Contracts, subcontracts and subgrants of amounts in excess of \$100,000 must contain a provision which requires compliance with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 1857 (h) or Section 508 of the Clean Air Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency (EPA) regulations (40 CFR, Part 15, which prohibit the use of facilities, included on the EPA List of Violating Facilities. The provision shall require reporting of violations to DCA and to the EPA. Assistant Administrator for Enforcement (P.L. 94-163).
9. Contracts, subcontracts and sub grants of amounts in excess of \$100,000 must contain a provision which requires compliance with all applicable standards, orders, or requirements issued under Section 3 of the Housing and Urban Development Act of 1968.
10. Contracts must recognize mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (P.L. 94-163).

## **Section 6. *Bonding and Insurance***

Whenever an SR enters into direct contracts for services, local procedures relating to bonding and insurance will be followed by SRs for all contracts of \$40,000 or less. For construction contracts entered into by the SR over \$40,000 the minimum bonding requirements are as follows:

- A. Contracts between \$40,000 and \$100,000 (as required by State law).
  1. A performance bond from contractors executed in connection with each contract;

2. A payment bond on the part of the contractor for 100% of the contract price.
- B. Contracts over \$100,000 (as required by Federal Law)
1. A bid guarantee from each bidder equal to 5% of the bid price. The bid guarantee shall consist of a bid bond, certified check, or other negotiable instrument accompanying the bid.
  2. A performance bond from contractors for 100% of the contract shall be executed in connection with each contract.
  3. A payment bond on the part of the contractor for 100% of the contract price.
  4. All bonds shall be obtained from companies holding certificates of authority as acceptable sureties.
- C. DCA strongly suggests that SRs require adequate liability insurance from all contractors.

## ***Section 7. Property Management Standard for Property Purchased With Administrative Funds***

SRs shall use their own property management standards and procedures provided that the minimum standards listed below are met. These standards apply to all equipment acquired with CHIP funds for administrative purposes.

- A. The various kinds of property are defined as follows:
1. **Real property.** Real property means land, including land improvements, structures and appurtenances thereto, excluding movable machinery and equipment. Please note that real property is not an eligible CHIP administrative cost.
  2. **Personal property.** Personal property of any kind except real property. It may be tangible, having physical existence, or intangible, having no physical existence, such as patents, inventions and copyrights.
  3. **Nonexpendable personal property.** Nonexpendable personal property means tangible personal property having a useful life of more than one year and an acquisition cost of \$300 or more per unit.
  4. **Expendable personal property.** Expendable personal property refers to all tangible personal property having less than one year's useful life and an acquisition cost of less than \$300 per unit.
  5. **Acquisition cost of purchased nonexpendable personal property.** Acquisition cost of an item purchased as nonexpendable personal property means the net invoice unit price of the property including the cost of modifications, attachments, accessories, or auxiliary apparatus necessary to make the property usable for the purposes for which it was

acquired. Other charges such as the cost of installation, transportation, taxes, duty or protection in transit insurance, shall be included or excluded from the unit acquisition cost in accordance with the SR's usual accounting practices.

B. The minimum standards are as follows:

1. When the CHIP award under which the property was acquired is closed out, the SR may use the property for any subsequent CHIP activities, or if there is no subsequent CHIP award, for any eligible Community Development (CDBG, etc.) activities.
2. When the SR no longer needs the property for any eligible Community Development activities, the following regulations apply:
  - a. The SR shall request disposition instructions from DCA for all non-expendable property with a unit acquisition cost of \$1,000 or more, and for all expendable personal property with an aggregate fair market value of \$1,000 or more.
  - b. Non-expendable property with a unit acquisition cost of less than \$1,000 and expendable personal property with an aggregate fair market value of less than \$1,000 shall be retained by the SR and used or disposed of at local discretion.
3. The SR's property management standards for non-expendable personal property shall provide that:
  - a. Property records are maintained accurately and include a description of the property, a manufacturer's serial number or other identification number, the CHIP grant number with which it was acquired, the acquisition date and cost, the location, use and condition of the property and the date the information was reported, the unit acquisition cost and the ultimate disposition date.
  - b. A physical inventory shall be taken and the results reconciled with the property records at least once every two years. Any differences shall be investigated to determine the cause.
4. A control system shall be in effect to insure adequate safeguards to prevent loss, damage or theft of property. Any loss, damage, or theft shall be investigated and fully documented.
5. Adequate maintenance procedures shall be implemented to keep the property in good condition.
6. Where the SR is authorized or required to sell the property, proper sales procedures shall be established which would provide for competition to the greatest practical extent and result in the highest possible return.
7. Shared use. During the time nonexpendable personal property is held for use on the project or program for which it was acquired, the grantee shall make it

available for use on other projects or programs if such other use will not interfere with the work on the project or program for which the property was originally acquired. First preference for such other use shall be given to other CDBG projects or programs sponsored by DCA. Second preference shall be given to other programs. User charges should be considered if appropriate.

8. It is strongly recommended that adequate dwelling and liability insurance coverage be secured by the SR whenever it acquires property.

## **Section 8. *Program Income***

Program Income is the gross income received by the State Recipient or a Subrecipient generated directly from the use of HOME funds. (For a more detailed definition of Program Income under HOME, please see 24 CFR 92.2 of the HOME Rule).

The following rules apply to Program Income:

- A. Program income generated by a CHIP funded activity may be retained by the SR or Sub-Recipient only under agreement with DCA and provided that it is clearly identified in the records as to date of receipt, nature of receipt, amount of receipt, and specific CHIP award which generated the income.
- B. Program Income must be deposited in the SR's CHIP Housing Account and must first be expended for any activity approved in the SR's currently active CHIP program prior to draw down of any additional CHIP funds. Program Income received after the close-out of the current CHIP program may be used for any ongoing CHIP eligible activity (e.g., revolving housing rehabilitation loan or grant fund) provided the use of the Program Income was clearly outlined in the original CHIP Statement of Award with DCA, or an amendment to the Statement of Award has been approved by DCA prior to expenditure of the program income.
- C. If there is no active CHIP award at the time of receipt of program income, and no ongoing or proposed CHIP eligible activity the SR must return all such income to DCA on not less than a quarterly basis with a remittance sheet indicating the source of the Program Income.
- D. Proceeds from the sale of real or non-expendable property purchased in whole or in part with CHIP funds for the purpose of administering CHIP program must be handled in accordance with Chapter 5, Section 7 - "Property Management Standards" – of this Manual.
- E. Proceeds from refunds of travel advances and overcharges from vendors are not program income but rather constitute decreases in expenditures, which should be subtracted from the next administrative draw request. If there is no active CHIP award at the time of receipt of such refunds, DCA should be immediately advised and instructions for disposition of the funds requested.
- F. For all Program Income not returned immediately to DCA (e.g., approved revolving loan funds), a CHIP Program Income Report should be submitted annually for the period ending September 30. The report is due by October 30. If no program income is received during the year, it is not necessary to submit a Program Income Report.



**Section 9. *Audit Requirements***

- A. Recipients must contract for annual independent audits of their financial operations, including compliance with Federal and State law and regulations. The contracts for independent audit must be done in accordance with OMB Circular A-133 if the following circumstances occur:
  - 1. If a SR extends \$500,000 in a year in total Federal Awards for the year;
  - 2. If a SR expends \$500,000 or more in a year, it must submit an annual audit that should be made in accordance with the General Accounting Office Government Auditing Standards and the Single Audit Act amendments of 1996.
- B. Recipients that expend less than \$500,000 in a year in total federal awards are exempt from Federal (but not State of Georgia) audit requirements for that year. However, records must be available for review.
- C. Recipients that are not required to submit an annual audit because they do not meet the OMB Circular A-133 threshold and use CHIP funds within their fiscal year will be required to submit the Project Cost Schedule and the Source and Application Schedule required by DCA. CHIP administrative funds may be used for pay for these financial schedules.
- D. Recipients are required to submit audits according to State laws and regulations.
- E. Audits must be made in accordance with the General Accounting Office Government Auditing Standards, 1994 Revision, OMB Circular A-128, and the Single Audit Act of 1984.
- F. Small business concerns and business concerns owned and controlled by socially and economically disadvantaged individuals shall have the maximum practicable opportunity to participate in the performance of contracts for audit services awarded with CHIP funds. SRs shall take the following affirmative action to further their goal:
  - 1. Assure that audit firms owned and controlled by socially and economically disadvantaged individuals as defined in P.L. 95-507 are used to the fullest extent practicable.
  - 2. Make information on forthcoming opportunities available, and arrange timeframes for the audit so as to encourage and facilitate participation by small or economically disadvantaged firms.
  - 3. Consider in the contract process whether firms competing for large audits intend to subcontract with small or economically disadvantaged firms.
  - 4. Encourage contracting with small or economically disadvantaged audit firms which have traditionally audited government programs, and in such cases where this is not possible, assure that these firms are given consideration for audit subcontracting opportunities.

5. Encourage contracting with consortiums of small or economically disadvantaged audit firms as described in paragraph (a) when a contract is too large for an individual small or economically disadvantaged firm.
  6. Use the services and assistance, as appropriate, of the Small Business Administration, the Minority Business Development Agency of the Department of Commerce, and the Community Services Administration in the solicitation and utilization of small or economically disadvantaged audit firms.
- G. A copy of all audit reports shall be provided by the SR to DCA no later than 30 days after issuance of the reports and no later than one year after the end of the audit report.
- H. Audits will include at a minimum an examination of internal control systems established to ensure compliance with laws and regulations affecting the expenditure of CHIP funds, financial transactions, and accounts and financial statements, and reports of SR organizations. These examinations are to determine whether:
1. There is effective control over and proper accounting for revenues, expenditures, assets and liabilities.
  2. The financial statements are presented fairly in accordance with generally accepted governmental accounting principles.
  3. The quarterly reports to DCA and claims for advances contain accurate and reliable financial data, and are presented in accordance with the terms of applicable agreements.
  4. CHIP funds are being expended in accordance with the terms of the grant award and those provisions of Federal and State Law or DCA regulations that could have a material effect on the financial statements.
- I. In order to accomplish the purposes set forth above, a representative number of charges to the CHIP award shall be tested. The test shall be representative of all cost categories that materially affect the award. The test is to determine whether the charges:
1. Are necessary and reasonable for the proper administration of the program;
  2. Conform to any limitations or exclusions of the CHIP award itself.
  3. Were given consistent accounting treatment and applied uniformly to both CHIP assisted and other activities of the SR;
  4. Were net of applicable credits;
  5. Did not include costs properly chargeable to other programs;

6. Were properly recorded (i.e., correct amount and date) and supported by source documentation.
  7. Were approved in advance if subject to prior approval;
  8. Were incurred in accordance with competitive purchasing procedures if covered by Section 5 above; and,
  9. Were allocated equitably to benefiting activities, including non-CHIP activities.
- J. Audits should be made annually. If an acceptable annual audit is completed within a short period of time prior to close out of a CHIP program, DCA will request payment documentation of the un-audited funds and then formally close the grant.
- K. If the auditor becomes aware of irregularities in the SR organization, the auditor shall promptly notify DCA and SR management officials above the level of involvement. Irregularities include such matters as conflicts of interest, falsification of records and reports, and misappropriation of funds or other assets.
- L. The annual audited financial statements shall include:
1. A statement that the audit was conducted in accordance with OMB Circular A-128
  2. Financial statements, including footnotes, of the SR organization.
  3. The auditor's report on the financial statement which should:
    - a. Identify the statements examined and the period covered.
    - b. State that the audit was done in accordance with the generally accepted government auditing standards.
    - c. Express an opinion as to whether the financial statements are fairly presented in accordance with generally accepted governmental accounting principles. If an unqualified opinion cannot be expressed, the nature of the qualification should be stated.
  4. A source and application of funds schedule and a "Project Cost Schedule" for all CHIP funds. The appropriate grant number(s) should also be shown. Please note that the Federal Schedule of Financial Assistance can be substituted for the "Source and Application" schedule.
  5. The auditor's reports on compliance and internal control which should:
    - a. Include comments on weaknesses or noncompliance with the systems of internal control, separately identifying material weaknesses.

- b. Identify the nature and impact of any noted instances of noncompliance with the terms of agreements or with provisions of Federal and State law or regulations that could have a material effect on the financial statements and reports.
  - c. Contain an expression of positive assurance with respect to compliance with the requirements for tested items and negative assurance for untested items.
- 6. Comments on the accuracy and completeness of financial reports and claims for advances or reimbursement to DCA.
- 7. Comments on corrective action taken or planned by the SR.
- M. Work papers and reports shall be retained for a minimum of three years from the date of the audit report unless the auditor is notified in writing by DCA of the need to extend the retention period. The audit work papers shall be made available upon request to DCA or its designees and the General Accounting Office or its designees.
- N. Whenever an audit discloses significant findings, the SR will be called upon by DCA to take corrective action. Depending upon the nature and seriousness of the inadequacies, drawdown of funds, final close out or subsequent award of CHIP and/or CDBG program funds may be delayed or denied until corrective action has been taken. Additionally, DCA may take any of the actions listed in Chapter 1, Section 12 of this Manual entitled "Sanctions."

## Chapter 9 – Project Interface with DCA

This chapter outlines the basic procedures for communicating with DCA on a project (unit by unit) basis to enable SRs to carry out their housing activities. Detailed procedures are provided here for the three primary tasks each SR must complete on a project basis including: Project Set-up, Project Draw, and Project Completion. The procedures established here enable DCA to comply with HUD's, required use of the Integrated Disbursement and Information System (IDIS). All required forms are located in the Forms section of the manual.

### Section 1. *The Local CHIP Housing Checking Account and the Initial Administrative Draw*

- A. Prior to the first draw down, the SR should establish a Local CHIP Housing Checking Account (CHIP Account) into which all administration and project draws should be initially deposited. In order to establish the CHIP Account, the SR may wish to advance an initial sum required to open the account (suggest \$100). The SR may use proceeds from the initial administration draw to reimburse itself for this account opening advance.
- B. Up to 25% of the Administrative Budget (A-21A-00) may be drawn down (see draw down procedures at Section 4 below) upon receipt of materials required to meet the Special Conditions attached to the Statement of Award. Clearance of each condition will be indicated with a Grant Adjustment Notice (GAN) sent to the SR. Once a GAN has been sent for all Special Conditions, the SR may draw initial administrative funds.

NOTE: While up to 25% of the administration budget may be drawn once all clearances have been achieved, the SR must have current billable expenses that equal or exceed the maximum allowable administration draw. Unlike CDBG rules, the SR may keep no more than \$100 on account to maintain the CHIP checking account. Recipients must maintain records which substantiate the staff and overhead cost associated with general management, oversight, and coordination of their program. CPD Notice 96-09, which HUD has developed as guidance on Administrative Costs and Project Related Soft Costs, can be accessed at:

<http://www.hud.gov/offices/cpd/lawsreg/notice/1996/96-9.pdf>.

Please read pages 3- 10 to gain a better understanding of what kinds of costs are eligible and whether to account for these expenses as administration or project related costs.

- C. The initial administration draw and all subsequent administration and project draws must be placed in the CHIP Account and all funds expensed (checks written and delivered) within seven (7) working days.

### Section 2. *Setting Up Your Projects*

- A. Project Set-Up Report. While HUD introduced revised HOME Set Up and Completion Forms to assist in collecting the HUD performance measurement data and in order to ease data entry into IDIS for HOME activities, DCA has discovered that the revised HUD forms do not include all of the HUD required data elements. Moreover, the new HUD

forms revised 8/06 do not include all of the required data that DCA needs in order to monitor program compliance. The new HUD forms revised 8/06 will not be used to set up CHIP projects until further notice.

Until further notice please continue using the HUD form 40094 dated 2/2003 along with the one page addendum to the set up form. Both forms are contained at Form Number 10 in the manual.

DCA has also modified the one page addendum only slightly in order to capture the "Date of Application" (for each CHIP applicant for which a set up report is being provided). The date that the household made application for CHIP assistance is important for the following reasons:

1. Income verifications must begin;
2. Income Limits, Maximum Per Unit Subsidy, Post Rehabilitation Value and Purchase Price Limits are valid as of this date; and,
3. A Good Faith Estimate of Closing Costs must be provided to borrowers within 3 days of this date.

NOTE: Due to the importance of this date, it is recommended that you establish this date when you accept the complete application (as opposed to a pre-screening application) for financial assistance.

CHIP rehabilitation projects built before January 1, 1978 that require a Lead Based Paint Risk Assessment, i.e. those projects receiving more than \$5,000 and up to \$25,000 in CHIP assistance, need to submit the following documentation to DCA with the project set-up:

1. The rehabilitation work write-up and cost estimate;
2. The Lead Based Risk Assessment Report; and
3. The Lead Hazard Reduction work write-up, if applicable, and cost estimate based on the results of the Lead Based Paint Risk Assessment Report.

In the event that the project is exempt from the Lead Based Paint Risk Assessment requirement, then the State Recipient would need to send a certification to DCA certifying as to the reason for the exemption. The HUD regulation provides for the following exemptions:

1. Housing built after January 1, 1978.
2. Housing exclusively for the elderly or people with disabilities, unless a child less than age (6) is expected to reside there. Housing for the elderly means retirement communities or similar types of housing reserved for households composed of one or more persons 62 years of age or more, or other age if recognized as elderly by a specific Federal housing assistance program. Single family homes occupied by elderly or disabled persons are not exempt.
3. Zero bedroom dwellings, including efficiency apartments, single-room occupancy housing, dormitories or military barracks.

4. Property that has been found to be free of lead-based paint by a certified lead-based paint inspector. This information may be used to confirm or refute a prior finding.
5. Property where all lead-based paint has been identified, removed and clearance has been achieved. This exemption does not apply to residential property where enclosure or encapsulation has been used as a method of abatement.
6. Non-residential property.
7. Any rehabilitation or housing improvement that does not disturb a painted surface.

In the event you are requesting an exemption, the State Recipient must certify to the applicable exemption and forward a signed certification with the project set-up. You may fax this form to us. Once the project is "Set-up" in IDIS, DCA will add a HUD designated Project Number to the Set-up Form, sign and date it, stamp the form with a set-up confirmation/date stamp, and fax the confirmation back to you. Maintain the confirmed, "Set-up" report as part of your project records.

#### B. Setting Up Re-Construction Projects

If a State Recipient determines that rehabilitation is not feasible, the State Recipient may send to DCA a Request for Reconstruction. This request must include a cover letter setting forth the justification for the reconstruction and the Rehabilitation Feasibility Test Form. Please see Appendix N. Request for reconstructions are only accepted by mail.

**DCA approval is required for all reconstructions.** Please forward the request by mail to:

Mr. Steed Robinson  
Director, Office of Community Development  
60 Executive Park South, N.E.  
Atlanta, Ga 30329

#### **REMEMBER! NO SET-UP, NO DRAWDOWN.**

Please mail or fax Project Set Up forms to:  
Attention: Ms. Michelle Lewis  
Georgia Department of Community Affairs  
Division of Community Development and Finance  
60 Executive Park South, N.E.  
Atlanta, GA 30329-2231

Note: Any requests to exceed the maximum CHIP per your approved application must be mailed by a local government official (city official, city clerk, local government manager or administrator) on government letter head. These requests will not be accepted by fax.

- B. Project Delivery Cost. In order to be able to draw down the Project Delivery Cost payment, you must include the full Project Delivery Cost in the amount you are setting up for the project. Only the direct staff and overhead costs associated with projects which are ultimately funded and completed may be covered under PDCs. One half of the PDC may be paid out after loan closing with the

remaining half paid after project completion. For purposes of draw down, PDCs must be included in the project activity budget line (i.e., H-14A-01) not part or the Administrative budget line.

In order to justify these costs for purposes of audits, please maintain records which substantiate the staff and overhead costs associated with each project (i.e., time reports and other direct project expenses).

NOTE: For more information about Project Delivery Costs please refer to CPD Notice 96-09 which HUD has developed as guidance on Administrative Costs and Project Related Soft Costs. Project Delivery Cost (PDC) is a type of project related soft Cost. The notice can be accessed at HUD's web site address at: <http://www.hud.gov/offices/cpd/lawsregs/notices/1996/96-9.pdf>. Please read pages 3 – 10 of the Notice to gain a better understanding of what kinds of costs are eligible.

- C. **Revised Project Set-Up.** If the amount of funding required for a project increases you must revise your Project Set-up Report showing the new higher amount. There is a box you must place a check mark in if this is a "revision".

If the original set-up (or revised) amount is not completely expended by the time the project is complete, the actual amount expended is indicated on the Project Completion Report (see instructions below) – **no revised Set-Up Form is needed when actual funds used decreases.**

**OBJECTIVE AND OUTCOME:** At project set-up, the new HUD Information and Distribution System requires that the State Recipient identify both an objective and an outcome for each project being set up. DCA has established the outcome and objective for each activity as follows:

Homebuyer Assistance: Objective is to "provide decent affordable housing."

Homebuyer Assistance: Outcome is "affordability."

Homeowner Rehabilitation: Objective is to "provide decent affordable housing."

Homeowner Rehabilitation: Outcome is "sustainability."

Rental Housing: Objective is to "provide decent affordable housing."

Rental Housing: Outcome is "affordability."

### **Section 3. HUD Contractor Debar Clearance**

Prior to issuing a Notice to Proceed to any contractor, you must check with DCA to ensure the contractor is not on the current HUD Debarment List. Please fax or mail a HUD Debar Clearance Form (*See Form #11 – one for each contractor*) to DCA prior to drawdown. DCA will provide you with a clearance letter for each of your contractors. Clearance letters must be kept in your project files.

*Mail or fax all Clearance Forms to:*

Attention: Ms. Pamela Truitt  
Georgia Department of Community Affairs  
Division of Community Development and Finance  
60 Executive Park South  
Atlanta, GA 30329-2231  
FAX: 404-679-1583



## Section 4. *Drawing Down Administration and Project Funds*

**Note:** NEW: Environmental Review Requirement: No project expenditures may be incurred or any CHIP funds drawn down for any activity (other than for grant administration, design activities and other exempt activities) prior to receipt of an environmental clearance letter releasing funds. This may be obtained by completing an environmental review of each project as described in Chapter 5, Section 1 of the FFY 2007 CHIP Recipients' Manual.

- A. Administrative Draw Down. Up to 25% of the administrative budget (A-21A-00) may be draw down as soon as all Special Conditions have been met. Up to 75% of the administrative budget may be drawn down after one half of the total CHIP award has been disbursed. All remaining administrative funds may be drawn only upon completion of the last project and submission of all required close-out materials.

Use Form DCA/CHIP B (See Form #12) for all administrative draw downs. This form allows you to draw both admin and project funds on one form.

- B. Project Draw Down. Once your project has received a Set-up confirmation, you may begin to draw funds down for Project Delivery Costs, other soft costs, and construction disbursements.

NOTE: DCA recommends that you attempt to have any local funds expended first for soft costs and construction costs prior to submitting CHIP draws.

Form DCA/CHIP B (*See Form #12*) was designed to allow you to include several project draws on a single form. You will also use this form to draw your administration funds. Each project must be referenced by its assigned HUD number off of the confirmed Set-up Form (see above). You must also indicate the budget line (from DCA 7, or your Budget Summary sheet that came with your award package) from which the draw request is pulled. *For example: indicate rehabilitation costs as H-14A-01.*

Draw requests must be **mailed**, and if properly completed and received by end of business on Tuesday will be processed for payment on the second Friday following the Tuesday receipt. Requests received by end of business on Thursday are processed for payment on the second Friday following the Thursday receipt. Draw request for final payment on a project must be submitted with the Contracts & Subcontracts for Projects Completed form (see Form #5) in order to be processed. No draws will be processed if any Special Conditions remain outstanding or any Quarterly Reports are past due.

*Please mail all Draw Request Forms to:*

Attention: Ms. Michelle Lewis  
Georgia Department of Community Affairs  
Division of Community Development and Finance  
Post Office Box 15523  
Atlanta, Georgia 30333-9998

- C. Maximum Disbursement Timeframe. All funds received from DCA must be disbursed (checks written and distributed) from your non-interest bearing HOME account within seven (7) working days. Any funds remaining from the draw after this time limit must be returned to DCA. If you need to keep a minimum balance in your account, you should arrange to place a minimum amount (suggest \$100) administrative or other funds in the account. Do not report this minimum balance on your draw request forms sent to DCA.

It is the responsibility of the SR to disburse funds to vendors (contractors) on behalf of borrowers or for other project related expenses. The SR must place all funds received from DCA into a separate bank account established for the local CHIP program and disburse these funds to the appropriate vendor or other payee within seven (7) days of receipt of the funds from DCA. All funds not disbursed must be returned promptly to DCA which must in turn refund the unused cash to the United States Treasury.

- D. Project Delivery Costs. Up to 50% of the Project Delivery Cost payment per unit may be requested upon closing of the housing assistance loan (borrower loan) after the project is Set-up by DCA. The remaining Project Delivery Cost may only be requested after the housing unit has been completed, all final close-out documentation has been processed (lien releases, warranties, etc.), and the Project Completion Report has been submitted (HUD Form Revised 8/06). (See Project Completion instructions below).

NOTE: Project Delivery Cost charged for projects which are later cancelled must be returned to DCA or charged against your admin budget.

## **Section 5. *Closing out your projects.***

- A. The Project Completion Report. While HUD introduced revised HOME Set Up and Completion Forms to assist in collecting the HUD performance measurement data and in order to ease data entry into IDIS for HOME activities, DCA has discovered that the revised HUD forms do not include all of the HUD required data elements. Moreover, the new HUD forms revised 8/06 do not include all of the required data that DCA needs in order to monitor program compliance. The new HUD forms revised 8/06 will not be used to report project completions until further notice.

Until further notice please continue using the HUD form 40096 dated 2/2003 along with the one page addendum to the completion form. Both forms are contained at Form Number 13 in the manual. Please note that the one page addendum was amended per DCA CHIP policy memorandum dated February 18, 2008 in order to more completely collect leverage information for each project.

The instructions for completing the form are included with the form.

- B. When to Submit the Project Completion Report. Within 60 days of the final drawdown of CHIP project funds for each project you must submit the project completion report, form # 13 and the required addendum to the project completion report. Submit your final draw request for Administration to DCA with or shortly after submitting the Project Completion Report. Remember that

DCA will not pay the final administrative draw until the project completion report and the "CHIP Project Completion Report Addendum" have been received by DCA.

*You should not submit the Project Completion Report until after:*

1. All other sources of project funding have been disbursed for project costs;
2. All final code or housing inspections have been completed (and documented), all final Lien Releases and the Contractor's Affidavit have been received;
3. All "punch list" items are complete and the borrower has signed a satisfaction statement; and,
4. All contractor warranties, major appliance documentation, and other "Quality Assurance Package" items have been released to the borrower.

**C. Completing Part C of the Homeownership Assistance Project Completion Report : For Home Purchases, you must indicate in Part C, Lines 1 and 2 of the Project Completion Report the "Initial Purchase Price" and the "Appraised Value". Neither the Appraised Value nor the Purchase Price can exceed the Maximum Property Value Limits.**

The acceptable methods of documenting the appraised value of the property are included in Chapter 3, Section 5.

NOTE: Under certain circumstances, the total development cost of a unit of single-family housing may exceed its appraised value. In such cases, the excess cost is called a "Development Subsidy" and is not counted in the amount of subsidy provided to the homebuyer. This would apply only to SR's with an approved CHIP award that included a development subsidy in their approved award for new construction as set forth in the DCA-5. 7 and 8 forms.

**NOTE:** If a rental project has units that are vacant at the time of project completion, the report should be submitted after the units are occupied unless they remain vacant past the 60 day time limit. The report must then be submitted even if it lacks current tenant information.

**D. Completing Part D of the Homeownership Assistance Project Completion Report**  
As part of the Project Completion Report for homeownership assistance you must indicate in Part D (back page) of the Project Completion Report (DCA/CHIP C-HO) the After Rehabilitation Value (Line 1) of the dwelling unit. You must also enter the Single Family Mortgage Limit (Line 2) for your area on the next line. The Single Family Mortgage Limits are available in this Manual at Appendix G as the "Maximum Property Value Limits".

It should be very rare to exceed these limits but the State Recipient must document that it has not. Therefore, the State Recipient must document how it arrived at an "After Rehabilitation" appraised value and the "Appraised Value" and sales price for home purchases.

The acceptable methods of documenting Property Values for various types of housing are contained in Chapter 3, Section 5.

- E. DCA will not disburse the final administrative draw until all project completion reports are received by DCA.
- F. Period of Affordability. For all rental and homebuyer projects, HOME regulations dictate specific periods of affordability and monitoring requirements based on the amount of HOME funds invested. The period of affordability begins only after the Project Completion Report had been received by HUD. Due to processing lag time, this timeframe is often several months after the project is completed from the SR's and DCA's perspective (internally closed).

Once DCA has made the final drawdown for each of your projects, you will receive a confirmation from DCA that the project is completed. However, this date is not the official date that HUD will consider the project to be completed. You may receive notices from HUD asking for a Project Completion Report even after you receive confirmation from DCA that the project is complete.

Whenever this occurs, please contact DCA immediately to inquire about this and we will make every effort to resolve any situations related to this issue.

**NOTE:** In order to avoid lag time problems associated with the beginning of the Period of Affordability, DCA strongly recommends that all State Recipients who are administering rental or homebuyer programs add a year to the minimum required term of their CHIP loans (and Land Use Restrictions, if applicable). Many SR's already have loan repayment terms exceeding the minimum term required by HOME regulation and therefore should have little concern about this lag time problem. (See Chapter 3, Section 7 of this Manual for more information about Periods of Affordability).

Please mail or fax your Project Completion Report to:

Attention: Ms. Michelle Lewis  
Georgia Department of Community Affairs  
Division of Community Development and Finance  
60 Executive Park South, N.E.  
Atlanta, Georgia 30329-2231  
FAX: 404-679-1583

## **Section 6. *Quarterly Reports***

- A. Quarterly Reports. Your first Quarterly Report (Form DCA/CHIP) is due January 31, 2009 for the period Sept 25, 2008 – December 31, 2009 and within 30 days of the end of each subsequent quarter until all program activity has ended. (For those of you familiar with the CDBG Quarterly Report, this form is similar but not quite the same.) Please notice that you are tracking progress under CHIP on a "unit by unit basis". The information in Section II of the report is intended to be cumulative: that is projects are placed on the list as soon as they are "Set-up" by DCA and stay on the report as they progress. There are only enough spaces for twelve units, so use a second page of this report if you have more than twelve units. You may use this report to keep track of your projects.

Section IV of the Quarterly Report no longer has to be completed. This information is captured on the Contracts & Subcontracts for Projects Completed

form (see form #5) and is submitted with the final drawdown request for each project.

- B. Final Quarterly Report. Submit your Final Quarterly Report only after all projects have been completed and closed-out. You will receive a monitoring visit following this final report. You may request your final Administrative Draw after submitting this report.

## Chapter 10 – Compliance

### Section 1. *CHIP Program Monitoring*

Annually, DCA awards CHIP funds on a competitive basis to eligible local government applicants. To ensure that initial applications are in keeping with the HOME program requirements, as well as other federal, state and local requirements, DCA sponsors an Applicants' Workshop in conjunction with the annual small cities CDBG workshop. The HOME program requirements are also detailed in the Applicants' Manual. Specifically, in regard to the HOME (CHIP) program, the following requirements are covered:

Eligible Local Government Applicants

Eligible HOME (CHIP) Activities

Ineligible HOME (CHIP) Activities

Basic HOME Rules

Definition of a Project

Form of Subsidy

Amount of Subsidy

Eligible Costs

The Property (Type, Value, Standards)

The Applicant or Beneficiary (Low Income)

The Long Term Affordability

Applicability of Other Federal Requirements

Non-Discrimination and Equal Access

Employment and Contracting

Site and Neighborhood Standards

Lead Based Paint

Displacement, Relocation and Acquisition

Financial Management

Housing

Historic Preservation

Citizen Participation

Following awards, local government CHIP recipients are required to attend the Recipients' Workshop. The CHIP Recipients' Manual is presented to the recipients and the CHIP staff again provides training on the HOME program requirements listed above.

The CHIP program staff (with assistance from the Division's Compliance Manager, as needed) conduct the following monitoring reviews of local government CHIP recipients:

**Grant Award Review:** An initial site visit review of the grant award includes: review of the general and special conditions of the award; grant adjustment notices; financial management procedures; citizen participation requirements; affirmative marketing requirements; fair housing requirements; environmental review; historic preservation; written agreements; and, location of program records. Technical assistance is also provided on any special requirements of the award such as Davis Bacon or Uniform Relocation and Real Properties Acquisition Act.

**Program Start-Up Review:** CHIP staff conducts an on-site start-up review to verify that the local government is on target with award timelines and in compliance with program

regulations. A review of the local government's program policies and procedures is also conducted. Special condition compliance, fair housing, use of manuals and forms and all required written agreements are discussed.

**Financial Management Review:** When between 40 and 60 percent of program funds have been drawn down, DCA conducts an on-site financial management review including case file reviews, site visits to completed projects, verification of income, verification of property ownership, owner occupancy, property type and value, property standards, loan and grant documentation, construction documentation, environmental screening, reconciliation of CHIP checking account, source documentation for all invoices and other financial management review.

**Close-Out Review:** After all project funds have been drawn, DCA conducts an on-site close-out review to monitor program and project records for compliance with HOME regulations including reconciliation of draw down records, final quarterly reporting, outstanding monitoring issues, unused funds return, administrative draws, case file reviews and record retention.

**On-going Technical Assistance:** The CHIP staff, with assistance from the Division's Compliance Manager, as needed, conducts technical assistance as requested during the program year to local government CHIP recipients and sub-recipient administrators.

**Housing Workshops:** The CHIP staff, in conjunction with the small cities CDBG housing staff, conducts periodic housing workshops for both CHIP and CDBG housing recipients.

**DCA Policy Memoranda:** Periodically, DCA issues CHIP policy memoranda to all active State Recipients and administrators providing clarification of CHIP programmatic issues and/or to provide updates on the CHIP program.

**DCA Monitoring Forms:** Please see Appendix C for the CHIP Monitoring Checklists

## **Section 2. *Summary of CHIP Policy Memoranda***

As mentioned above, DCA periodically issues policy memoranda to the SRs in order to clarify CHIP programmatic issues and/or to provide updates on the CHIP program. These memoranda are sent to all active CHIP recipients and their administrators. Copies of these memoranda will be provided to all of the FFY 2009 CHIP recipients at the initial monitoring review.

This chapter provides a summary of each memorandum issued to date in chronological order. All requirements in these memoranda, as amended by follow-up memorandum, must be followed by SRs.

### **December 1, 2000: Reporting Contractor Data**

This memorandum requires that SRs submit the "Contracts and Subcontracts for Projects Completed" with the final draw down request on each completed CHIP project. See Form # 5 of this manual.

### **June 29, 2000: HUD Requirements for Down Payment and/or Second Mortgage Assistance Provided with CHIP (HOME) Funding**

This memorandum explains the HUD requirement that a "Notice to Seller" must be provided by the buyer on each CHIP assisted down payment or second mortgage project. This

memorandum sets forth two HUD requirements per the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA). The buyer must provide the seller a notice setting forth the following information:

- a. A signed statement that the purchaser does not have the power of eminent domain, and, therefore, will not acquire the property if negotiations fail to result in an amicable agreement; and,
- b. A statement that the SR (City or County) has determined the estimate of fair market value of the property being acquired and apprising the seller of the estimate.

See form # 8 of this Manual.

#### **July 10, 2000: Application for CHIP Assistance**

This memorandum requires that the SR obtain two signed certifications from each CHIP applicant at applicant stage:

- a. Certification as to Conflict of Interest; and,
- b. Certification as to Income and Principal Residence.

See Form # 8 and Form # 9 of this manual.

#### **May 21, 2001: Addressing Lead Based Paint in Homebuyer Programs**

This memorandum provides SR's and program administrators a summary of the HUD requirements regarding Lead Based Paint in homebuyer programs. See Appendix K of this Manual.

#### **May 23, 2001: Update on CHIP Program**

This memorandum provides an update on the following requirements:

- a. Lead Based Paint Requirements for CHIP Project Set-Ups for Rehabilitation Projects with More than \$5,000 and up to \$25,000 in CHIP assistance;
- b. DCA established increased maximum project delivery fees; and,
- c. The charging of any application fee by a SR or administrator to prospective CHIP applicants must be approved by DCA and, if approved, the SR's local program policies and procedures would require an amendment to include any DCA approved application fee.

#### **August 3, 2001: Addressing Lead Based Paint in Rehabilitation Programs**

This memorandum provides a summary of the HUD requirements regarding Lead Based Paint in rehabilitation programs. See Appendix K of this manual.

#### **October 12, 2001: Uniform Relocation Act Requirements for Down Payment and/or Second Mortgage Assistance Provided with CHIP (HOME) Funding**

This memorandum sets forth HUD and DCA requirements in meeting the URA in regard to projects that are or have been tenant occupied and the required notification to a prospective



tenant. It is important to note that CHIP applicants cannot enter into binding sales contracts and therefore cannot purchase properties that are tenant occupied at the time of purchase negotiations. Additionally, this memorandum requires two notices:

- a. Seller Certification as to Tenant Occupancy; and,
- b. Guideform Notice to Prospective Tenant.

See Form # 14 and Form # 15 of this Manual.

**June 22, 2003: New HUD Revised Project Completion Report**

This memorandum transmitted the new HUD project completion report entitled "Homebuyer/Homeowner Rehabilitation Completion Report." See Form # 13 of this manual.

**April 15, 2003: Reimbursement for Lead Inspection and Risk Assessments in the Event the Project Falls Out and Invoicing Process for CHIP Project Delivery Fees and Administrative Costs**

This memorandum provided SRs with a new process that enables a SR to be reimbursed the costs of a lead inspection and risk assessment if after contracting for the inspection and possible risk assessment the project does not go forward.

This memorandum also reminded SRs that in order to be reimbursed for project delivery fees and administrative fees that a detailed invoice for each fee must be submitted to the local government SR, even if the SR is administering its own award.

**August 25, 2003: HOME Conflict of Interest Provisions**

This memorandum set forth a clarification of the HOME Program Conflict of Interest requirements per HUD Notice CPD 98-09. Please see HUD's web site address at:

<http://www.hud.gov/offices/cpd/lawsregs/notices/1998/98-9.ptf>

**November 19, 2003: Update on CHIP Program**

This memorandum provided clarification and changes to the administration of the CHIP program in the following areas:

- a. Securing the Local Government's Interest in CHIP Funding for Homebuyer Assistance Projects and Homeowner Rehabilitation Projects

This section requires that if CHIP assistance is used to assist an applicant in buying a manufactured home that is not contained in a land/purchase true "real estate" transaction, but rather as a chattel mortgage, the CHIP SR must add the local government SR as a second lien holder on the title in order to secure their interest in the loan. This is also required in the event the SR is assisting a buyer in purchasing a manufactured home, even if they already own the land.

- b. Securing the Local Government's Interest in CHIP Funding for Homebuyer Assistance Projects and Homeowner Rehabilitation Projects

This section reminded SRs that they are required to use a Deed to Secure Debt, Real Estate Note and Loan Agreement on all CHIP projects.

c. Recapturing Net Proceeds in the Event of Foreclosure or Deed in Lieu of Foreclosure

This section put SRs on notice that DCA had forwarded a waiver request to HUD to change the method of recapture on homebuyer projects to the net proceeds method.

d. Program Income Clarification

This section clarified that recaptured funds are “not” program income, but rather represent a return of the original HOME investment and therefore recaptured funds must be remitted to DCA for placement in the HOME Investment Trust Fund local account.

e. CHIP Draw Downs Being Returned

This section advised SRs that during the past months DCA had seen an increase in the amount of CHIP draw downs being returned. This section requires that a letter of explanation must accompany each returned check setting forth the reason for the return on SR letter head.

f. Financial Procedures

This section requires each local government SR to review and sign a certification that they have reviewed and reconciled the local CHIP checking account with the CHIP disbursement of funds ledger on a monthly basis. The monthly certifications were required to be forwarded to DCA on a one-time only basis. However, the monthly certifications are required to be contained in the SR's award file for each month of the CHIP award. See Form # 16 of this Manual.

g. Original Source Documentation on all Invoices/Detailed Invoices for CHIP  
Administrative and Project Delivery Fees

This section reminded SR's that original source documentation must be submitted to the SR and maintained in the project file for each CHIP disbursement.

This section also reminded SRs that detailed invoices must be submitted to local government SRs in order for a CHIP administrator or consultant to be reimbursed for project delivery and administrative fees. Even if a community is administering their own CHIP program, itemized invoices need to be submitted to obtain reimbursement for both project delivery fees and administrative fees.

**February 23, 2004: Senate Bill 443 Regarding Handicapped Accessibility**

This memorandum set forth that new construction of single family homes funded with CHIP must follow the amendments in Senate Bill 443 requiring certain features to make the housing accessible to persons with mobility requirements.

**April 12, 2004: Determining Affordability of First Mortgage Loans with CHIP  
or CDBG Down Payment/Second Mortgage Assistance and  
Effect of Adjustable or Variable Rate Mortgages and Other  
Flexible Mortgage Plans**

This memorandum reminded CHIP and CDBG local government SRs and their administrators of their responsibility to ensure that the low income purchaser under CHIP or CDBG obtain an affordable first mortgage loan that will remain affordable. HUD has published in their "Building HOME, a HOME Program Primer," that:

"to improve the likelihood of continued affordability, loans should normally be fixed rates."

This memorandum also requires that the SR provide each CHIP and CDBG prospective purchaser a copy of the Office of Thrift Supervision's "Consumer Handbook on Adjustable Rate Mortgages." This memorandum further requires that SRs assist each homebuyer in getting the Mortgage Checklist at the end of the booklet completed by the first mortgage lender. Please see Form # 17 of this Manual.

### **August 19, 2004: Update on CHIP Program**

This memorandum provided an update on several aspects of the CHIP program including:

- a. Announcement of the HUD Approval of the Waiver on CHIP Projects in Foreclosure and Net Proceeds Recapture Requirements on CHIP Homebuyer Projects.

This section of the memorandum announced that DCA received a HUD waiver that allows a SR to recapture only the net proceeds in the event of a voluntary or involuntary sale, including foreclosure or deed in lieu of foreclosure. This waiver does not relieve the SR of its responsibility to recover CHIP funds available to it as a result of foreclosure or deed in lieu of foreclosure.

This section also required that effective immediately SRs employ the net proceeds method of recapture policy for both voluntary and involuntary sales on all CHIP homebuyer projects. See Appendix L.

- b. CHIP Project Delivery Fees and Use of Grant Agreements

This section of the memorandum incorrectly set forth information regarding project delivery fees and the use of grant agreements. Please note that the memorandum dated October 7, 2004 clarified the HUD and DCA requirements regarding project delivery fees and grant agreements. **Therefore, this section of the memorandum has been amended by the memorandum dated October 7, 2004.**

- c. Recaptured Funds Versus Program Income

This section of the memorandum clarified the requirements set forth in the memorandum dated November 19, 2003 regarding recaptured funds. The section confirmed the policy that recaptured funds are a return on the initial CHIP investment and must be remitted to DCA for placement in the DCA HOME

Investment Trust Fund Account. This section set forth that this policy remains in effect per the memorandum dated November 19, 2003.

This section also requires that if a SR is retaining program income funds per their approved program award, a separate written agreement must be entered into between the SR and DCA. The written agreement must set forth the procedures to be used by the SR to control the receipt and expenditure of program income. The written agreement must state that upon termination, program income must be returned to DCA.

d. Project Completion Reports

This section notified SRs that DCA was conducting an audit of missing project completion reports. This section also notified SRs that DCA will not disburse the final twenty-five (25) percent administrative fee until all project completion reports for the award have been received by DCA.

e. Returned CHIP Funds

This section of the memorandum alerted SRs that DCA had continued to experience excessive return of "unused" CHIP funds that were apparently drawn down in some cases prematurely. SRs were advised that DCA expects only to see a returned CHIP check on an "exceptional" basis and that if the number of returns continued to increase, DCA will be forced to put into place a measure of charging the SR for the cost of processing each return.

**October 7, 2004: Update on CHIP Program**

This memorandum provided an update on several aspects of the CHIP program and **corrected and clarified the information in the DCA memorandum dated August 19, 2004 regarding CHIP project delivery fees and the use of grant agreements.** This memorandum covered the following:

Financial Procedures

This section of the memorandum reminded SRs that in accordance with DCA memorandum dated November 19, 2003 that each local government SR must sign a certification that they have reviewed and reconciled their local CHIP checking account with the CHIP disbursement of funds ledger on a monthly basis. This requirement was put into place based on a HUD review of the CHIP program. This section alerted SRs that during recent monitoring reviews, DCA became aware that this requirement and the required certification were not consistently being followed.

Continued Audit of Missing Project Completion Reports

This section thanked the local government SRs and their administrators for their recent assistance in DCA's missing project completion reports audit. This section also requested their continued assistance as while 129 cases were resolved, over 400 projects still required research. This section also reminded SRs that the final

administrative draw cannot be paid until all project completion reports are received by DCA.

### **Correction and Clarification to Memorandum Dated August 19, 2004 Regarding CHIP Project Delivery Fees and Use of Grant Agreements**

This section advised that the information contained in the memorandum dated August 19, 2004 regarding project delivery fees and use of grant agreements was amended. Specifically, this section set forth the following:

“Please be advised that the information contained on page 2 of our memorandum dated August 19, 2004 regarding project delivery fees and use of grant agreements is amended as follows:

For homeowner rehabilitation and reconstruction projects:

Grant agreements for project delivery fees will still be required for homeowner rehabilitation projects and homeowner reconstruction projects. Therefore, the costs of the project delivery fees will not be included in the total amount of CHIP funding for purposes of determining the required affordability period, as you are granting the cost of the project delivery fee to the homeowner.

For homebuyer projects including down payment, closing costs or second mortgage assistance:

Grant agreements for project delivery fees will not be required for homebuyer projects. Project delivery fees must be included in the total amount of CHIP funding when determining the required affordability period. This is based on HUD requirements regarding homebuyer projects and DCA has no authority, as in the case with homeowner rehabilitation or homeowner reconstruction projects, to grant the project related soft costs or project delivery fee in homebuyer projects.

In all cases, regardless of the type of activity, the amount of the project delivery fee will not be included in the maximum amount of CHIP funding as set forth in the SR's approved finance plan.”

### **Revised Monitoring Forms**

This section of the memorandum transmitted an additional monitoring form that is used by DCA in conducting the Phase III Financial Management and Close-Out reviews of all CHIP awards. The new monitoring form covers:

- a. the requirement that the SR be listed as a second lien holder on the title to manufactured homes if not a home/land true “real estate” transaction or if the SR assisted a CHIP applicant buy a manufactured home to put on land that they already owned (or on rented land).
- b. a review of the SR's award file to determine that the “Local Government CHIP Recipient Certification of CHIP Checking Account Review and Reconciliation” is contained in the award file for each month. See Form # 16 of this Manual.

- c. review of DCA financial management report for missing project completion reports.
- d. review of first mortgage financing to determine if any adjustable rate mortgages were used and, if so, the exact terms of the ARM and whether or not the "Mortgage Checklist" is in the file. See Form # 17 of this manual.

#### **December 29, 2004: CHIP Program Second Lien Note Recapture Requirements**

This memorandum set forth language regarding "Time and Place of Payments" that SRs were required to add or include in the second lien note for all CHIP homebuyer projects. This language was applicable to any sale including voluntary or involuntary sales such as foreclosure or deed in lieu of foreclosure. This language was designed to protect both DCA and the SR from having to refund the HOME Investment Trust Fund local account the CHIP funds invested in a homebuyer project that does not meet the affordability requirements for the specified period.

This memorandum also reminded SRs that they are to continue to make good faith efforts to recover CHIP funds available to it as a result of foreclosure.

This memorandum required SRs to include the "Time and Place of Payments" language in the second lien notes on homebuyer projects.

This memorandum also advised SRs that DCA was developing with outside counsel revised legal documents to incorporate this language. SRs were advised that until the revised legal documents were completed to make sure that this language was incorporated into their current CHIP loan documents.

**As DCA continued to work with outside counsel on the development of the documents, it became necessary to revise the last paragraph of the required language in order to make it clear that the mathematical formula is used only in the event there are insufficient proceeds to repay both the homeowner's and the CHIP investment. Additionally, it became necessary to include a new sentence clarifying that:**

**"In the event the net proceeds exceed the amount necessary to repay both the homeowner's investment and the HOME (CHIP) subsidy, the excess proceeds will be paid to the homeowner."**

These two revisions were forwarded to SRs and their administrators via DCA memorandum dated January 14, 2005.

#### **January 14, 2005: CHIP Program Second Lien "Note" Recapture Provisions**

As a result of DCA's continued work with outside counsel on developing legal documents for the CHIP program in order to allow for the net proceeds method of recapture, this memorandum was issued to revise certain language as set forth in the DCA memorandum dated December 29, 2004. Specifically, the revised language

clarified that the mathematical formula for determining net proceeds is used only in the event there are insufficient proceeds to repay both the homeowner's and the CHIP investment.

The memorandum also added a new sentence to the revised net proceeds note language clarifying that any excess proceeds over and above the amount necessary to repay both the homeowner's investment and the CHIP subsidy would be paid to the homeowner.

This memorandum advised that DCA was continuing to work with outside counsel to develop standardized CHIP loan documents. This memorandum also advised that until this task was completed that SRs were to make sure that this language was incorporated into their current documents.

SRs were also reminded that the language regarding the net proceeds method of recapture is applicable to any sale, both voluntary and involuntary. SRs were reminded that this language protects both DCA and the local government SR from having to refund the HOME Investment Trust Fund local account the CHIP funds invested in a homebuyer project that does not meet the affordability requirements for the specified period.

#### **August 20, 2005 – Update on CHIP Program**

This memorandum provided an update on the following CHIP topics:

1. **New Loan Documents for CHIP Projects:** This section of the memorandum transmitted the new CHIP loan documents. DCA engaged outside counsel to develop a set of new loan documents to be used for the CHIP program. Specifically, the new documents were developed in order to provide for the net proceeds method of recapture for the home buyer assisted projects. At the same time, the outside counsel developed standardized documents for CHIP homeowner rehabilitation projects.

The new loan documents are contained in Appendix L of this Manual.

2. **New DCA CHIP Policy on Loan to Value for CHIP-Assisted Homebuyer Projects:** This section of the memorandum set forth DCA's new policy on Loan to Value on CHIP-assisted projects. The new policy is set forth in Chapter 6 of this Manual.
3. **Perfecting the City/County Lien on Manufactured Homes Sold with CHIP Assistance:** This section of the memorandum served as a reminder that State Recipients are required to be included as a second lien holder on the application for title to the Georgia Department of Motor Vehicles on CHIP assistance used to help a household buy a manufactured home.
4. **New DCA Policy Regarding On-Going Monitoring and Compliance of CHIP-Assisted Projects:** This section of the memorandum requires State Recipients to maintain a log of each CHIP assisted household with the beginning and ending dates of the required affordability period. The State Recipient is required to send

on an annual basis a "DO NOT FORWARD" letter to each household on the anniversary date of the recorded loan documents to ensure that the original assisted CHIP household remains in the property as its principal residence. For any returned letters, the State Recipient will implement procedures to follow-up with the CHIP assisted household to take measures to recapture the CHIP assistance due the State Recipient. Many of the State Recipients have already implemented this procedure.

5. Third-Party Verification of Income and Assets: This section of the memorandum shared with the State Recipients that HUD had recently expressed concern regarding the use of "review of documentation" provided by applicants for HUD assistance in lieu of "third party verifications."
6. Recaptured Funds Versus Program Income: This section of the memorandum reminded State Recipients that recaptured funds are not considered "program income" but rather represent a return of the original HOME investment. When the State Recipient receives recaptured funds, the funds must be remitted to DCA to the attention of Angela Davis) for placement in the DCA HOME Investment Trust Fund Local Account. The remittance must be accompanied by a letter of explanation of the recaptured funds identifying the HUD project number, owner name and address.

**September 21, 2005 – Use of Adjustable Rate Mortgages, Variable Rate Mortgages or Other Flexible Mortgage Plans with CHIP or CDBG Down Payment/Second Mortgage Assistance**

This memorandum was a follow-up to DCA memorandum dated April 12, 2004. This memorandum set forth DCA's new policy that the Community Development and Finance Division now requires review on a case by case basis of any adjustable and/or variable rate mortgage or other flexible mortgage plan being considered as the first mortgage for low income purchasers under the CHIP or CDBG program.

This memorandum requires that the "lender's written summary" of the terms and conditions of each such contemplated first mortgage setting forth the index, margin, calculated interest rate, adjustable period, teaser rates, rate cap and payment cap be forwarded to DCA for review.

**February 13, 2006 – Use of DCA's Georgia Dream Homeownership Program with CHIP Homebuyer Assistance**

This memorandum apprised all CHIP recipients of the benefits of the DCA Georgia Dream Homeownership Program. The memorandum requires that all CHIP applicants for down payment or second mortgage assistance are provided the Georgia Dream Homeownership Program brochure at application stage. The memorandum also encouraged CHIP State Recipients to develop partnerships with participating lenders in the Georgia Dream Homeownership Program and to meet with local lenders who are not currently participating in the Georgia Dream Homeownership program and encourage them to apply to DCA to become participating lenders.



**May 25, 2006 – Amendment to DCA CHIP Policy Memorandum Dated August 20, 2005**

This memorandum amended the DCA policy as set forth in the August 20, 2005 memorandum with regard to the loan to value on CHIP assisted down payment/second mortgage assistance projects for stick-built properties. In response to feedback from several CHIP State Recipients, the policy was amended to provide that: State Recipients cannot approve CHIP funding where the combined debt (CHIP funding and other public and/or private financing) exceeds the loan to value limits as set forth by the underwriting, closing and funding criteria of the DCA Georgia Dream first mortgage revenue bond program, Fannie Mae, Freddie Mac, USDA, FHA or VA. Any exceptions must be submitted to DCA prior to project set-up for review and approval.

**July 14, 2006 – New HUD HOME Outcome Performance Measurement System**

This memorandum explained the new HUD HOME Outcome Performance Measurement System requirements. Until HUD amends the project set-up and project completion reports to capture the new required data elements, a separate one page "CHIP Project Set-Up Report Addendum must be submitted with each project set-up. A new one page "CHIP Project Completion Report Addendum" must also be submitted with each project completion report. The new addenda are included with Forms numbered 10 and 13 of this manual.

**August 15, 2007 – Update on CHIP Program**

This memorandum provided an update on the CHIP program regarding the use of a new grant agreement for use of home buyer projects to cover the cost of project delivery fees. This memorandum supersedes the memorandum dated October 7, 2004 regarding grant agreements for home buyer project delivery fees. The memorandum also requires the use of a grant agreement for lead based paint costs in the CHIP program. This memorandum also provides additional language to be included in the CHIP second deed to secure debt when the first mortgage loan is FHA insured.

This memorandum also notified all active CHIP Recipients and Administrators that DCA is still requiring the use of the HUD project set up and completion forms dated 2/2003 along with the DCA required addendum for the set up form and the DCA required addendum for the project completion form.

**February 15, 2008 – Leverage Reporting Requirements, Property Inspection Form Required for CHIP Down Payment Assistance and/or Second Mortgage Assistance Projects, Written Rehabilitation Standards for CHIP Homeowner Rehabilitation Projects, and Section 3 Compliance**

This memorandum provided an update on the above listed CHIP program requirements.

Regarding the leveraging reporting requirements, the one page DCA addendum to CHIP project completion report was amended to more completely collect leverage

information for each project as required by our enhanced performance and accountability systems.

The memorandum served as a reminder that in accordance with the HOME program regulations at 24 CFR 92.252, SR's administering CHIP down payment and/or second mortgage assistance projects must inspect the home to ensure it meets all applicable State and local housing quality standards and if there are no such standards or code requirements, the housing must meet the housing quality standards in 24 CFR 982.402 (Section 8 Housing Quality Standards). The Section 8 Housing Quality Standards inspection checklist (HQS Inspection checklist) was included with this memorandum and must be included in each project file unless the SR has adopted one of the State of Georgia's permissive codes for existing buildings.

The memorandum also reminded SR's that administer homeowner rehabilitation programs that they are required to adopt a set of "written rehabilitation standards" that establishes standards for the actual rehabilitation work that will bring the housing into compliance with the "property standard or code."

The memorandum also provided information that is required for the SR to meet the Section 3 provision of the Housing and Urban Development (HUD) Act of 1968 that helps foster local economic development, neighborhood economic improvement, and individual self-sufficiency. Because Section 3 is required for all HUD awards at \$200,000 or greater, then Section 3 applies to the CHIP program. The memorandum provided a revised "Contracts and Sub-contracts Completed Form" to include various Section 3 reporting requirements.

### **March 17, 2008 – Section 3 Compliance**

This memorandum was a follow-up to the CHIP Policy Memorandum dated February 15, 2008. This memorandum forwarded the revised "Contracts and Sub-contracts Completed Form" as it was inadvertently left out of the February 15, 2008 memorandum.

### **Section 3. HUD Monitoring and HUD Monitoring Forms to Ensure Program Compliance**

When a Participating Jurisdiction (PJ) like the Georgia Department of Community Affairs (DCA) accepts HOME funds, it also accepts the responsibility to see that those funds are spent for the program purposes, and in accordance with all applicable Federal regulations and state and local laws. The PJ retains the responsibility even when it relies on other housing partners to carry out all or a portion of its HOME Program activities. Noncompliance with HOME Program rules by any entity can lead to any number of consequences, including the repayment of HOME funds to HUD by the Participating Jurisdiction. In regard to State Recipients administering the HOME program on behalf of DCA please reference the sanctions that DCA can impose in the event the local government fails to comply with program requirements. These sanctions are located in Chapter 1, Section 12 of this manual on page 16.

When HUD monitors DCA on the HOME program they also randomly select a State Recipient local government to monitor. Whether HUD is monitoring DCA or a State Recipient local government, their review evaluates several functions within the organization's operational system including Financial and Administrative, Program Operations, and Projects. While monitoring may uncover specific instances of noncompliance with program rules, it is generally focused on evaluating whether or not an organization has an effective flow of work and has incorporated checks and balances into its operations, so that compliance is built into the standard operating procedures.

Because HUD monitors both DCA and its local governments participating in the CHIP program as State Recipients, DCA will begin using the actual HUD monitoring forms in future Phase 3 and Close-out reviews. Initially, DCA will utilize Exhibit 7-2, Exhibit 7-3, Exhibit 7-4, Exhibit 7-5, Exhibit 7-6, Exhibit 7-18, Exhibit 7-19, and Exhibit 7-22. These forms will be used by DCA in addition to the regular Phase 3 and Close-out review forms. In the next few months, DCA will combine the DCA monitoring forms and the HUD monitoring forms into one set of forms. For CHIP rental projects we will also use Exhibit 7-7 and Exhibit 7-8.

Please see Appendix R for the HUD monitoring forms that DCA will begin using in conducting Phase 3 and Close-out monitoring reviews.

You will note that the HUD monitoring forms include:

Attachment 7-0, HOME Pre-Monitoring Preparation for Homeowner Rehabilitation Program. State Recipients are required to complete this form and have it available for DCA review at the Phase 3 and Close-out review. While the form references "Participating Jurisdiction," please complete the form as if the questions were related to your local government.

Exhibit 7-1, HOME Participating Jurisdiction Pre-Monitoring Information Sheet. This exhibit is designed for HUD reviewers to consolidate subsidy limits, income and rent information applicable to a State Recipient for the fiscal year (s) being monitored, rather than carrying printouts for multiple years for each limit type.

Exhibit 7-2, Guide for Review of Overall Management Systems. This form is used to monitor: Overall Management; Program Progress; Reporting and Oversight; Written Agreements; HOME Subsidy; HOME Affordability Requirements; Housing Quality Standards; Other Requirements; Recordkeeping; and Financial Management. HUD also uses this form as an interview instrument for program staff.

Exhibit 7-3, Guide for Review of Homeowner Rehabilitation Projects. Both HUD and DCA will use this form in conducting monitoring reviews. This form is designed for use in reviewing individual project files for the owner-occupied rehabilitation program. There are nine (9) sections including: Participant Eligibility; Property Eligibility; Eligible/Reasonable Costs; Property Standards; Written Agreements; Contractor Selection; Construction Management; Loan Processing and Servicing; and Documentation.

Exhibit 7-4, Guide for Review of Homeowner Rehabilitation Programs. This form is designed to be either alone or in conjunction with Exhibit 7-3. It is also divided into

nine (9) sections including: Project Recordkeeping; Participant Eligibility; Property Requirements; Property Standards; Eligible/Reasonable Costs; Contractor Selection; Construction Management; Loan Processing and Servicing.

Exhibit 7-5, Guide for Review of Homebuyer Projects. This form is used to monitor the individual project and unit records for the CHIP homebuyer program. CHIP does not participate in the ADDI program so the questions pertaining to ADDI do not apply to CHIP.

Exhibit 7-6, Guide for Review of Homebuyer Programs. This form is used to assess the overall administration of the homebuyer assistance program. This form is divided into ten (10) sections including: Program Recordkeeping; Participant Eligibility; Property Eligibility; Property Standards; Eligible/Reasonable Costs; Other Requirements; Contractor Selection; Construction Management; Resale/Recapture Options; and Written Agreements.

Exhibit 7-7, Guide for Review of Rental Projects. This form is designed to review individual project and unit records for HOME-funded rental projects. This form is divided into ten (10) sections: Project Description; Project Recordkeeping; Subsidy; Cost Allocation; Eligible/Reasonable Costs; Property Standards; Initial and Ongoing Rent and Occupancy Requirements; Other Project Requirements; Construction Management; and On-Site Management.

Exhibit 7-8, Guide for Review of Rental Programs. This form can be used alone or in conjunction with Exhibit 7-7. It is divided into nine (9) sections including: Program Recordkeeping; PJ Monitoring Responsibilities; Eligible Costs/Subsidy Layering/Cost Allocation; Initial and Ongoing Rents; Incomes and Occupancy; Property Standards; Other Project Requirement; Eligible Costs; Construction Management; and Loan Servicing. 10. Exhibit 7-18, Guide for Review of Subrecipient Agreements. This form is designed to review the written agreements with a subrecipient for compliance with HOME regulatory requirements.

Exhibit 7-14, Guide for Review of Beneficiary Written Agreements. This form is designed to review written agreements for compliance with HOME regulatory requirements. It is divided into three (3) sections including: Homebuyer Agreements; Homeowner Agreements; and Tenant-Based Rental Assistance. (DCA does not participate in the HOME Tenant Based Rental Assistance Program.)

Exhibit 7-18, Guide for Review of Subrecipient Written Agreements. This form is designed to review written agreements with a subrecipient for compliance with HOME regulatory requirements.

Exhibit 7-19, Guide for Review of Subrecipient Management. This form is designed to review compliance with HOME requirements for subrecipients. It is divided into eight (8) sections including: Subrecipient Management and Training Systems; Internal Controls; Subrecipient Agreements; Reporting; On-Site Monitoring; Program Income Monitoring; On-Site Review of Subrecipients; and Summary.

Exhibit 7-22, Guide for Review of Procurement. This form is designed to assess compliance with applicable procurement requirements. It is divided into eight (8)

sections including: Selected Sample; Small Purchases; Competitive Sealed Bids; Competitive Proposals; Noncompetitive Proposals; General Provisions/Procedures; Bonding and Insurance; and Contracting with Small and Minority firms, Women's Business Enterprises and Labor Surplus Area Firms.